

SB1429



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1429

Introduced 2/9/2007, by Sen. John J. Cullerton - Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

See Index

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides for the imposition and collection of tax under the Acts on prewritten computer software. Sets forth provisions under the Acts for the State's participation in the and collection of tax under the Streamlined Sales and Use Tax Agreement. Makes other changes.

LRB095 04029 BDD 29109 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Revenue Law is amended by
5 changing Section 2505-210 as follows:

6 (20 ILCS 2505/2505-210) (was 20 ILCS 2505/39c-1)

7 Sec. 2505-210. Electronic funds transfer.

8 (a) The Department may provide means by which persons
9 having a tax liability under any Act administered by the
10 Department may use electronic funds transfer to pay the tax
11 liability.

12 (b) Beginning on October 1, 2002, a taxpayer who has an
13 annual tax liability of \$200,000 or more shall make all
14 payments of that tax to the Department by electronic funds
15 transfer. Before August 1 of each year, beginning in 2002, the
16 Department shall notify all taxpayers required to make payments
17 by electronic funds transfer. All taxpayers required to make
18 payments by electronic funds transfer shall make those payments
19 for a minimum of one year beginning on October 1. For purposes
20 of this subsection (b), the term "annual tax liability" means,
21 except as provided in subsections (c) and (d) of this Section,
22 the sum of the taxpayer's liabilities under a tax Act
23 administered by the Department, except the Motor Fuel Tax Law

1 and the Environmental Impact Fee Law, for the immediately
2 preceding calendar year.

3 (b-5) Beginning on July 1, 2008, taxpayers that have chosen
4 to be registered under the Streamlined Sales and Use Tax
5 Agreement registration system and all Certified Service
6 Providers shall make payments of all State and local occupation
7 or use taxes for which they are registered under that system
8 through the use of electronic funds transfer. For purposes of
9 this subsection (b-5), the terms "Streamlined Sales and Use Tax
10 Agreement" and "Certified Service Provider" shall have the same
11 meanings as those terms are defined in Section 1 of the
12 Retailers' Occupation Tax Act.

13 (c) For purposes of subsection (b), the term "annual tax
14 liability" means, for a taxpayer that incurs a tax liability
15 under the Retailers' Occupation Tax Act, Service Occupation Tax
16 Act, Use Tax Act, Service Use Tax Act, or any other State or
17 local occupation or use tax law that is administered by the
18 Department, the sum of the taxpayer's liabilities under the
19 Retailers' Occupation Tax Act, Service Occupation Tax Act, Use
20 Tax Act, Service Use Tax Act, and all other State and local
21 occupation and use tax laws administered by the Department for
22 the immediately preceding calendar year.

23 (d) For purposes of subsection (b), the term "annual tax
24 liability" means, for a taxpayer that incurs an Illinois income
25 tax liability, the greater of:

26 (1) the amount of the taxpayer's tax liability under

1 Article 7 of the Illinois Income Tax Act for the
2 immediately preceding calendar year; or

3 (2) the taxpayer's estimated tax payment obligation
4 under Article 8 of the Illinois Income Tax Act for the
5 immediately preceding calendar year.

6 (e) The Department shall adopt such rules as are necessary
7 to effectuate a program of electronic funds transfer and the
8 requirements of this Section.

9 (Source: P.A. 91-239, eff. 1-1-00; 92-492, eff. 1-1-02.)

10 Section 10. The State Finance Act is amended by changing
11 Section 6z-18 and 6z-20 as follows:

12 (30 ILCS 105/6z-18) (from Ch. 127, par. 142z-18)

13 Sec. 6z-18. For sales occurring through June 30, 2008, a A
14 portion of the money paid into the Local Government Tax Fund
15 from sales of food for human consumption which is to be
16 consumed off the premises where it is sold (other than
17 alcoholic beverages, soft drinks and food which has been
18 prepared for immediate consumption) and prescription and
19 nonprescription medicines, drugs, medical appliances and
20 insulin, urine testing materials, syringes and needles used by
21 diabetics, which occurred in municipalities, shall be
22 distributed to each municipality based upon the sales which
23 occurred in that municipality. For sales occurring on and after
24 July 1, 2008, a portion of the money paid into the Local

1 Government Tax Fund from sales of food and food ingredients for
2 human consumption (other than prepared food, prescription
3 drugs, and over-the-counter drugs), which occurred in
4 municipalities, shall be distributed to each municipality upon
5 the sales which occurred in that municipality. The remainder
6 shall be distributed to each county based upon the sales which
7 occurred in the unincorporated area of that county. For sales
8 occurring on and after July 1, 2008, the determination of where
9 a sale (or transfer of prewritten computer software) has
10 occurred shall be determined using the sourcing rules provided
11 in subsection (c) of Section 2 of the Retailers' Occupation Tax
12 Act.

13 A portion of the money paid into the Local Government Tax
14 Fund from the 6.25% general use tax rate on the selling price
15 of tangible personal property which is purchased outside
16 Illinois at retail from a retailer and which is titled or
17 registered by any agency of this State's government shall be
18 distributed to municipalities as provided in this paragraph.
19 Each municipality shall receive the amount attributable to
20 sales for which Illinois addresses for titling or registration
21 purposes are given as being in such municipality. The remainder
22 of the money paid into the Local Government Tax Fund from such
23 sales shall be distributed to counties. Each county shall
24 receive the amount attributable to sales for which Illinois
25 addresses for titling or registration purposes are given as
26 being located in the unincorporated area of such county.

1 A portion of the money paid into the Local Government Tax
2 Fund from the 6.25% general rate (and, beginning July 1, 2000
3 and through December 31, 2000, the 1.25% rate on motor fuel and
4 gasohol) on sales and from the 6.25% rate on transfers of
5 prewritten computer software subject to taxation under the
6 Retailers' Occupation Tax Act and the Service Occupation Tax
7 Act, which occurred in municipalities, shall be distributed to
8 each municipality, based upon the sales or transfers which
9 occurred in that municipality. The remainder shall be
10 distributed to each county, based upon the sales which occurred
11 in the unincorporated area of such county.

12 Before July 1, 2008, for ~~For~~ the purpose of determining
13 allocation to the local government unit, a retail sale by a
14 producer of coal or other mineral mined in Illinois is a sale
15 at retail at the place where the coal or other mineral mined in
16 Illinois is extracted from the earth. This paragraph does not
17 apply to coal or other mineral when it is delivered or shipped
18 by the seller to the purchaser at a point outside Illinois so
19 that the sale is exempt under the United States Constitution as
20 a sale in interstate or foreign commerce.

21 Whenever the Department determines that a refund of money
22 paid into the Local Government Tax Fund should be made to a
23 claimant instead of issuing a credit memorandum, the Department
24 shall notify the State Comptroller, who shall cause the order
25 to be drawn for the amount specified, and to the person named,
26 in such notification from the Department. Such refund shall be

1 paid by the State Treasurer out of the Local Government Tax
2 Fund.

3 On or before the 25th day of each calendar month, the
4 Department shall prepare and certify to the Comptroller the
5 disbursement of stated sums of money to named municipalities
6 and counties, the municipalities and counties to be those
7 entitled to distribution of taxes or penalties paid to the
8 Department during the second preceding calendar month. The
9 amount to be paid to each municipality or county shall be the
10 amount (not including credit memoranda) collected during the
11 second preceding calendar month by the Department and paid into
12 the Local Government Tax Fund, plus an amount the Department
13 determines is necessary to offset any amounts which were
14 erroneously paid to a different taxing body, and not including
15 an amount equal to the amount of refunds made during the second
16 preceding calendar month by the Department, and not including
17 any amount which the Department determines is necessary to
18 offset any amounts which are payable to a different taxing body
19 but were erroneously paid to the municipality or county. Within
20 10 days after receipt, by the Comptroller, of the disbursement
21 certification to the municipalities and counties, provided for
22 in this Section to be given to the Comptroller by the
23 Department, the Comptroller shall cause the orders to be drawn
24 for the respective amounts in accordance with the directions
25 contained in such certification.

26 When certifying the amount of monthly disbursement to a

1 municipality or county under this Section, the Department shall
2 increase or decrease that amount by an amount necessary to
3 offset any misallocation of previous disbursements. The offset
4 amount shall be the amount erroneously disbursed within the 6
5 months preceding the time a misallocation is discovered.

6 The provisions directing the distributions from the
7 special fund in the State Treasury provided for in this Section
8 shall constitute an irrevocable and continuing appropriation
9 of all amounts as provided herein. The State Treasurer and
10 State Comptroller are hereby authorized to make distributions
11 as provided in this Section.

12 In construing any development, redevelopment, annexation,
13 preannexation or other lawful agreement in effect prior to
14 September 1, 1990, which describes or refers to receipts from a
15 county or municipal retailers' occupation tax, use tax or
16 service occupation tax which now cannot be imposed, such
17 description or reference shall be deemed to include the
18 replacement revenue for such abolished taxes, distributed from
19 the Local Government Tax Fund.

20 (Source: P.A. 90-491, eff. 1-1-98; 91-51, eff. 6-30-99; 91-872,
21 eff. 7-1-00.)

22 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

23 Sec. 6z-20. Of the money received from the 6.25% general
24 rate (and, beginning July 1, 2000 and through December 31,
25 2000, the 1.25% rate on motor fuel and gasohol) on sales and

1 from the 6.25% rate on transfers of prewritten computer
2 software subject to taxation under the Retailers' Occupation
3 Tax Act and Service Occupation Tax Act and paid into the County
4 and Mass Transit District Fund, distribution to the Regional
5 Transportation Authority tax fund, created pursuant to Section
6 4.03 of the Regional Transportation Authority Act, for deposit
7 therein shall be made based upon the retail sales or transfers
8 occurring in a county having more than 3,000,000 inhabitants.
9 The remainder shall be distributed to each county having
10 3,000,000 or fewer inhabitants based upon the retail sales or
11 transfers occurring in each such county.

12 For sales occurring on and after July 1, 2008, the
13 determination of where a sale (or transfer of prewritten
14 computer software) has occurred shall be determined using the
15 sourcing rules provided in subsection (c) of Section 2 of the
16 Retailers' Occupation Tax Act.

17 Before July 1, 2008, for ~~For~~ the purpose of determining
18 allocation to the local government unit, a retail sale by a
19 producer of coal or other mineral mined in Illinois is a sale
20 at retail at the place where the coal or other mineral mined in
21 Illinois is extracted from the earth. This paragraph does not
22 apply to coal or other mineral when it is delivered or shipped
23 by the seller to the purchaser at a point outside Illinois so
24 that the sale is exempt under the United States Constitution as
25 a sale in interstate or foreign commerce.

26 Of the money received from the 6.25% general use tax rate

1 on tangible personal property which is purchased outside
2 Illinois at retail from a retailer and which is titled or
3 registered by any agency of this State's government and paid
4 into the County and Mass Transit District Fund, the amount for
5 which Illinois addresses for titling or registration purposes
6 are given as being in each county having more than 3,000,000
7 inhabitants shall be distributed into the Regional
8 Transportation Authority tax fund, created pursuant to Section
9 4.03 of the Regional Transportation Authority Act. The
10 remainder of the money paid from such sales shall be
11 distributed to each county based on sales for which Illinois
12 addresses for titling or registration purposes are given as
13 being located in the county. Any money paid into the Regional
14 Transportation Authority Occupation and Use Tax Replacement
15 Fund from the County and Mass Transit District Fund prior to
16 January 14, 1991, which has not been paid to the Authority
17 prior to that date, shall be transferred to the Regional
18 Transportation Authority tax fund.

19 Whenever the Department determines that a refund of money
20 paid into the County and Mass Transit District Fund should be
21 made to a claimant instead of issuing a credit memorandum, the
22 Department shall notify the State Comptroller, who shall cause
23 the order to be drawn for the amount specified, and to the
24 person named, in such notification from the Department. Such
25 refund shall be paid by the State Treasurer out of the County
26 and Mass Transit District Fund.

1 On or before the 25th day of each calendar month, the
2 Department shall prepare and certify to the Comptroller the
3 disbursement of stated sums of money to the Regional
4 Transportation Authority and to named counties, the counties to
5 be those entitled to distribution, as hereinabove provided, of
6 taxes or penalties paid to the Department during the second
7 preceding calendar month. The amount to be paid to the Regional
8 Transportation Authority and each county having 3,000,000 or
9 fewer inhabitants shall be the amount (not including credit
10 memoranda) collected during the second preceding calendar
11 month by the Department and paid into the County and Mass
12 Transit District Fund, plus an amount the Department determines
13 is necessary to offset any amounts which were erroneously paid
14 to a different taxing body, and not including an amount equal
15 to the amount of refunds made during the second preceding
16 calendar month by the Department, and not including any amount
17 which the Department determines is necessary to offset any
18 amounts which were payable to a different taxing body but were
19 erroneously paid to the Regional Transportation Authority or
20 county. Within 10 days after receipt, by the Comptroller, of
21 the disbursement certification to the Regional Transportation
22 Authority and counties, provided for in this Section to be
23 given to the Comptroller by the Department, the Comptroller
24 shall cause the orders to be drawn for the respective amounts
25 in accordance with the directions contained in such
26 certification.

1 When certifying the amount of a monthly disbursement to the
2 Regional Transportation Authority or to a county under this
3 Section, the Department shall increase or decrease that amount
4 by an amount necessary to offset any misallocation of previous
5 disbursements. The offset amount shall be the amount
6 erroneously disbursed within the 6 months preceding the time a
7 misallocation is discovered.

8 The provisions directing the distributions from the
9 special fund in the State Treasury provided for in this Section
10 and from the Regional Transportation Authority tax fund created
11 by Section 4.03 of the Regional Transportation Authority Act
12 shall constitute an irrevocable and continuing appropriation
13 of all amounts as provided herein. The State Treasurer and
14 State Comptroller are hereby authorized to make distributions
15 as provided in this Section.

16 In construing any development, redevelopment, annexation,
17 preannexation or other lawful agreement in effect prior to
18 September 1, 1990, which describes or refers to receipts from a
19 county or municipal retailers' occupation tax, use tax or
20 service occupation tax which now cannot be imposed, such
21 description or reference shall be deemed to include the
22 replacement revenue for such abolished taxes, distributed from
23 the County and Mass Transit District Fund or Local Government
24 Distributive Fund, as the case may be.

25 (Source: P.A. 90-491, eff. 1-1-98; 91-872, eff. 7-1-00.)

1 Section 15. The Use Tax Act is amended by changing Sections
2 2, 3, 3-5, 3-5.5, 3-10, 3-10.5, 3-25, 3-45, 6, 8, 9, 10, and 12
3 and by adding Sections 3-5.1, 3-10.2, 3-10.3, and 23 as
4 follows:

5 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

6 Sec. 2. Definitions. "Use" means the exercise by any person
7 of any right or power over tangible personal property incident
8 to the ownership of that property, except that it does not
9 include the sale of such property in any form as tangible
10 personal property in the regular course of business to the
11 extent that such property is not first subjected to a use for
12 which it was purchased, and does not include the use of such
13 property by its owner for demonstration purposes: Provided that
14 the property purchased is deemed to be purchased for the
15 purpose of resale, despite first being used, to the extent to
16 which it is resold as an ingredient of an intentionally
17 produced product or by-product of manufacturing. For purposes
18 only of the tax imposed under subsection (b) of Section 3 of
19 this Act, "use" means the exercise by any person of any right
20 or power over prewritten computer software, except that it need
21 not include the ownership of that prewritten computer software,
22 the copyright for that prewritten computer software, or the
23 title for that prewritten computer software, and does not
24 include transfer of prewritten computer software for purposes
25 of re-transfer. Prewritten computer software that is on a

1 server, regardless of where the server is located, and that is
2 accessed from a terminal or other device located in Illinois is
3 "used" in Illinois for purposes of the tax imposed under
4 subsection (b) of Section 3 of this Act. "Use" does not mean
5 the demonstration use or interim use of tangible personal
6 property by a retailer before he sells that tangible personal
7 property. For watercraft or aircraft, if the period of
8 demonstration use or interim use by the retailer exceeds 18
9 months, the retailer shall pay on the retailers' original cost
10 price the tax imposed by this Act, and no credit for that tax
11 is permitted if the watercraft or aircraft is subsequently sold
12 by the retailer. "Use" does not mean the physical incorporation
13 of tangible personal property, to the extent not first
14 subjected to a use for which it was purchased, as an ingredient
15 or constituent, into other tangible personal property (a) which
16 is sold in the regular course of business or (b) which the
17 person incorporating such ingredient or constituent therein
18 has undertaken at the time of such purchase to cause to be
19 transported in interstate commerce to destinations outside the
20 State of Illinois: Provided that the property purchased is
21 deemed to be purchased for the purpose of resale, despite first
22 being used, to the extent to which it is resold as an
23 ingredient of an intentionally produced product or by-product
24 of manufacturing.

25 "Watercraft" means a Class 2, Class 3, or Class 4
26 watercraft as defined in Section 3-2 of the Boat Registration

1 and Safety Act, a personal watercraft, or any boat equipped
2 with an inboard motor.

3 "Purchase at retail" means the acquisition of the ownership
4 of or title to tangible personal property through a sale at
5 retail.

6 "Purchaser" means anyone who, through a sale at retail,
7 acquires the ownership of tangible personal property for a
8 valuable consideration.

9 "Sale at retail" means any transfer of the ownership of or
10 title to tangible personal property to a purchaser, for the
11 purpose of use, and not for the purpose of resale in any form
12 as tangible personal property to the extent not first subjected
13 to a use for which it was purchased, for a valuable
14 consideration: Provided that the property purchased is deemed
15 to be purchased for the purpose of resale, despite first being
16 used, to the extent to which it is resold as an ingredient of
17 an intentionally produced product or by-product of
18 manufacturing. For this purpose, slag produced as an incident
19 to manufacturing pig iron or steel and sold is considered to be
20 an intentionally produced by-product of manufacturing. "Sale
21 at retail" includes any such transfer made for resale unless
22 made in compliance with Section 2c of the Retailers' Occupation
23 Tax Act, as incorporated by reference into Section 12 of this
24 Act. Transactions whereby the possession of the property is
25 transferred but the seller retains the title as security for
26 payment of the selling price are sales.

1 "Sale at retail" shall, through June 30, 2008, also be
2 construed to include any Illinois florist's sales transaction
3 in which the purchase order is received in Illinois by a
4 florist and the sale is for use or consumption, but the
5 Illinois florist has a florist in another state deliver the
6 property to the purchaser or the purchaser's donee in such
7 other state.

8 Nonreusable tangible personal property that is used by
9 persons engaged in the business of operating a restaurant,
10 cafeteria, or drive-in is a sale for resale when it is
11 transferred to customers in the ordinary course of business as
12 part of the sale of food or beverages and is used to deliver,
13 package, or consume food or beverages, regardless of where
14 consumption of the food or beverages occurs. Examples of those
15 items include, but are not limited to nonreusable, paper and
16 plastic cups, plates, baskets, boxes, sleeves, buckets or other
17 containers, utensils, straws, placemats, napkins, doggie bags,
18 and wrapping or packaging materials that are transferred to
19 customers as part of the sale of food or beverages in the
20 ordinary course of business.

21 The purchase, employment and transfer of such tangible
22 personal property as newsprint and ink for the primary purpose
23 of conveying news (with or without other information) is not a
24 purchase, use or sale of tangible personal property.

25 "Selling price" means the consideration for a sale valued
26 in money whether received in money or otherwise, including

1 cash, credits, property other than as hereinafter provided, and
2 services, but not including the value of or credit given for
3 traded-in tangible personal property where the item that is
4 traded-in is of like kind and character as that which is being
5 sold, and shall be determined without any deduction on account
6 of the cost of the property sold, the cost of materials used,
7 labor or service cost or any other expense whatsoever, but does
8 not include interest or finance charges which appear as
9 separate items on the bill of sale or sales contract nor
10 charges that are added to prices by sellers on account of the
11 seller's tax liability under the "Retailers' Occupation Tax
12 Act", or on account of the seller's duty to collect, from the
13 purchaser, the tax that is imposed by this Act, or on account
14 of the seller's tax liability under Section 8-11-1 of the
15 Illinois Municipal Code, as heretofore and hereafter amended,
16 or on account of the seller's tax liability under the "County
17 Retailers' Occupation Tax Act". Effective December 1, 1985,
18 "selling price" shall include charges that are added to prices
19 by sellers on account of the seller's tax liability under the
20 Cigarette Tax Act, on account of the seller's duty to collect,
21 from the purchaser, the tax imposed under the Cigarette Use Tax
22 Act, and on account of the seller's duty to collect, from the
23 purchaser, any cigarette tax imposed by a home rule unit.

24 The phrase "like kind and character" shall be liberally
25 construed (including but not limited to any form of motor
26 vehicle for any form of motor vehicle, or any kind of farm or

1 agricultural implement for any other kind of farm or
2 agricultural implement), while not including a kind of item
3 which, if sold at retail by that retailer, would be exempt from
4 retailers' occupation tax and use tax as an isolated or
5 occasional sale.

6 "Department" means the Department of Revenue.

7 "Person" means any natural individual, firm, partnership,
8 association, joint stock company, joint adventure, public or
9 private corporation, limited liability company, or a receiver,
10 executor, trustee, guardian or other representative appointed
11 by order of any court.

12 "Retailer" means and includes every person engaged in the
13 business of making sales at retail as defined in this Section.

14 A person who holds himself or herself out as being engaged
15 (or who habitually engages) in selling tangible personal
16 property at retail is a retailer hereunder with respect to such
17 sales (and not primarily in a service occupation)
18 notwithstanding the fact that such person designs and produces
19 such tangible personal property on special order for the
20 purchaser and in such a way as to render the property of value
21 only to such purchaser, if such tangible personal property so
22 produced on special order serves substantially the same
23 function as stock or standard items of tangible personal
24 property that are sold at retail.

25 A person whose activities are organized and conducted
26 primarily as a not-for-profit service enterprise, and who

1 engages in selling tangible personal property at retail
2 (whether to the public or merely to members and their guests)
3 is a retailer with respect to such transactions, excepting only
4 a person organized and operated exclusively for charitable,
5 religious or educational purposes either (1), to the extent of
6 sales by such person to its members, students, patients or
7 inmates of tangible personal property to be used primarily for
8 the purposes of such person, or (2), to the extent of sales by
9 such person of tangible personal property which is not sold or
10 offered for sale by persons organized for profit. The selling
11 of school books and school supplies by schools at retail to
12 students is not "primarily for the purposes of" the school
13 which does such selling. This paragraph does not apply to nor
14 subject to taxation occasional dinners, social or similar
15 activities of a person organized and operated exclusively for
16 charitable, religious or educational purposes, whether or not
17 such activities are open to the public.

18 A person who is the recipient of a grant or contract under
19 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
20 serves meals to participants in the federal Nutrition Program
21 for the Elderly in return for contributions established in
22 amount by the individual participant pursuant to a schedule of
23 suggested fees as provided for in the federal Act is not a
24 retailer under this Act with respect to such transactions.

25 Persons who engage in the business of transferring tangible
26 personal property upon the redemption of trading stamps are

1 retailers hereunder when engaged in such business.

2 The isolated or occasional sale of tangible personal
3 property at retail by a person who does not hold himself out as
4 being engaged (or who does not habitually engage) in selling
5 such tangible personal property at retail or a sale through a
6 bulk vending machine does not make such person a retailer
7 hereunder. However, any person who is engaged in a business
8 which is not subject to the tax imposed by the "Retailers'
9 Occupation Tax Act" because of involving the sale of or a
10 contract to sell real estate or a construction contract to
11 improve real estate, but who, in the course of conducting such
12 business, transfers tangible personal property to users or
13 consumers in the finished form in which it was purchased, and
14 which does not become real estate, under any provision of a
15 construction contract or real estate sale or real estate sales
16 agreement entered into with some other person arising out of or
17 because of such nontaxable business, is a retailer to the
18 extent of the value of the tangible personal property so
19 transferred. If, in such transaction, a separate charge is made
20 for the tangible personal property so transferred, the value of
21 such property, for the purposes of this Act, is the amount so
22 separately charged, but not less than the cost of such property
23 to the transferor; if no separate charge is made, the value of
24 such property, for the purposes of this Act, is the cost to the
25 transferor of such tangible personal property.

26 "Retailer maintaining a place of business in this State",

1 or any like term, means and includes any of the following
2 retailers:

3 1. A retailer having or maintaining within this State,
4 directly or by a subsidiary, an office, distribution house,
5 sales house, warehouse or other place of business, or any
6 agent or other representative operating within this State
7 under the authority of the retailer or its subsidiary,
8 irrespective of whether such place of business or agent or
9 other representative is located here permanently or
10 temporarily, or whether such retailer or subsidiary is
11 licensed to do business in this State. However, the
12 ownership of property that is located at the premises of a
13 printer with which the retailer has contracted for printing
14 and that consists of the final printed product, property
15 that becomes a part of the final printed product, or copy
16 from which the printed product is produced shall not result
17 in the retailer being deemed to have or maintain an office,
18 distribution house, sales house, warehouse, or other place
19 of business within this State.

20 2. A retailer soliciting orders for tangible personal
21 property by means of a telecommunication or television
22 shopping system (which utilizes toll free numbers) which is
23 intended by the retailer to be broadcast by cable
24 television or other means of broadcasting, to consumers
25 located in this State.

26 3. A retailer, pursuant to a contract with a

1 broadcaster or publisher located in this State, soliciting
2 orders for tangible personal property by means of
3 advertising which is disseminated primarily to consumers
4 located in this State and only secondarily to bordering
5 jurisdictions.

6 4. A retailer soliciting orders for tangible personal
7 property by mail if the solicitations are substantial and
8 recurring and if the retailer benefits from any banking,
9 financing, debt collection, telecommunication, or
10 marketing activities occurring in this State or benefits
11 from the location in this State of authorized installation,
12 servicing, or repair facilities.

13 5. A retailer that is owned or controlled by the same
14 interests that own or control any retailer engaging in
15 business in the same or similar line of business in this
16 State.

17 6. A retailer having a franchisee or licensee operating
18 under its trade name if the franchisee or licensee is
19 required to collect the tax under this Section.

20 7. A retailer, pursuant to a contract with a cable
21 television operator located in this State, soliciting
22 orders for tangible personal property by means of
23 advertising which is transmitted or distributed over a
24 cable television system in this State.

25 8. A retailer engaging in activities in Illinois, which
26 activities in the state in which the retail business

1 engaging in such activities is located would constitute
2 maintaining a place of business in that state.

3 "Bulk vending machine" means a vending machine, containing
4 unsorted confections, nuts, toys, or other items designed
5 primarily to be used or played with by children which, when a
6 coin or coins of a denomination not larger than \$0.50 are
7 inserted, are dispensed in equal portions, at random and
8 without selection by the customer.

9 Beginning July 1, 2008, "lease or rental" means the
10 transfer of possession or control of tangible personal property
11 for a fixed or indeterminate term for consideration. A lease or
12 rental may include future options to purchase or extend.

13 (A) Lease or rental does not include:

14 (1) a transfer of possession or control of property
15 under a security agreement or deferred payment plan that
16 requires the transfer of title upon completion of the
17 required payments;

18 (2) a transfer of possession or control of property
19 under an agreement that requires the transfer of title upon
20 the completion of required payments and payment of an
21 option price does not exceed the greater of \$100 or 1% of
22 the total required payments; or

23 (3) providing tangible personal property along with an
24 operator for a fixed or indeterminate period of time. A
25 condition for this exclusion is that the operator is
26 necessary for the equipment to perform as designed. For the

1 purpose of this subsection, an operator must do more than
2 maintain, inspect, or set-up the tangible personal
3 property.

4 (B) Lease or rental does not include agreements covering
5 motor vehicles and trailers where the amount of consideration
6 may be increased or decreased by reference to the amount
7 realized upon sale or disposition of the property as defined in
8 26 USC 7701(h)(1).

9 (C) This definition shall be used for purposes of this Act
10 regardless if a transaction is characterized as a lease or
11 rental under generally accepted accounting principles, the
12 Internal Revenue Code, the Uniform Commercial Code, or other
13 provisions of federal, State or local law.

14 Beginning January 1, 2008, "computer" means an electronic
15 device that accepts information in digital or similar form and
16 manipulates it for a result based on a sequence of
17 instructions.

18 Beginning January 1, 2008, "computer software" means a set
19 of coded instructions delivered by any means, including
20 delivered electronically or by load and leave, designed to
21 cause a "computer" or automatic data processing equipment to
22 perform a task.

23 Beginning January 1, 2008, "delivered electronically"
24 means delivered to the purchaser by means other than tangible
25 personal property storage media.

26 Beginning January 1, 2008, "electronic" means relating to

1 technology having electrical, digital, magnetic, wireless,
2 optical, electromagnetic, or similar capabilities.

3 Beginning January 1, 2008, "load and leave" means delivery
4 to the transferee by use of a tangible storage media where the
5 tangible storage is not physically transferred to the
6 transferee.

7 Beginning January 1, 2008, "prewritten computer software"
8 means computer software, including prewritten upgrades, that
9 is not designed and developed by the author or other creator to
10 the specifications of a specific transferee. The combining of 2
11 or more prewritten computer software programs or prewritten
12 portions thereof does not cause the combination to be other
13 than prewritten computer software. "Prewritten computer
14 software" includes software designed and developed by the
15 author or other creator to the specifications of a specific
16 transferee when it is transferred to a person other than the
17 specific transferee. When a person modifies or enhances
18 computer software of which the person is not the author or
19 creator, the person shall be deemed to be the author or creator
20 only of such person's modifications or enhancements.
21 Prewritten computer software or a prewritten portion thereof
22 that is modified or enhanced to any degree, when the
23 modification or enhancement is designed and developed to the
24 specifications of a specific transferee, remains prewritten
25 computer software, except that when there is a reasonable,
26 separately stated charge on an invoice or other statement of

1 the price given to the transferee for the modification or
2 enhancement, the modification or enhancement does not
3 constitute prewritten computer software.

4 Beginning January 1, 2008, "transfer", for purposes of the
5 tax imposed by subsection (b) of Section 3 of this Act, means
6 any transfer of the right to use or possess prewritten computer
7 software, regardless of whether that right is combined with the
8 title to or ownership of the software and includes, but is not
9 limited to, a transfer by sale, license, lease or rental,
10 except that it does not include the transfer of prewritten
11 computer software for re-transfer.

12 Beginning January 1, 2008, "transferee", for purposes of
13 the tax imposed under subsection (b) of Section 3 of this Act,
14 means any person who has received the right to use or possess
15 prewritten computer software that is transferred by sale,
16 license, lease, rental or other transaction.

17 Beginning January 1, 2008, "transfer price", for purposes
18 of the tax imposed under subsection (b) of Section 3 of this
19 Act, means all consideration for the right to use or possess
20 prewritten computer software that is transferred by sale,
21 license, lease, rental, or other transaction and includes, but
22 is not limited to, money or otherwise, including cash, credits,
23 services, and property of every kind or nature, and shall be
24 determined without deduction on account of the cost of software
25 transferred, the cost of materials used, labor or service cost
26 or any other expense whatsoever, but does not include amounts

1 that are added to charges by transferors on account of the
2 transferor's tax liability under subsection (b) of Section 3 of
3 this Act, or on account of the transferor's duty to collect
4 from the transferee, a tax that is imposed by the Use Tax Act.

5 Beginning January 1, 2008, "transferor", for purposes of
6 the tax imposed under subsection (b) of Section 3 of this Act,
7 means any person who engages in the business of transferring
8 the right to use or possess prewritten computer software by
9 sale, license, lease, rental, or other transaction.

10 Beginning January 1, 2008, "transferor maintaining a place
11 of business in this State", or any like term, means any
12 transferor having or maintaining within this State, directly or
13 by a subsidiary, an office, facility, warehouse, sales office
14 or other place of business, or any employee, agent or other
15 representative operating within this State under the authority
16 of such transferor or such transferor's subsidiary,
17 irrespective of whether such place of business or agent or
18 other representative is located in this State permanently or
19 temporarily, or whether such transferor or such transferor's
20 subsidiary is licensed to do business in this State.

21 Beginning January 1, 2008, "upgrade" means any patch, code,
22 strands of code, or addition or change to the coding of
23 computer software.

24 Beginning July 1, 2008, "Streamlined Sales and Use Tax
25 Agreement" means the agreement adopted the twelfth day of
26 November, 2002, as now or hereafter amended, by states that

1 enacted authority to engage in multistate discussions as
2 described in Section 5 of the Simplified Sales and Use Tax
3 Administration Act.

4 Beginning July 1, 2008, "agent" means, for purposes of the
5 Streamlined Sales and Use Tax Agreement, a person appointed by
6 a seller to represent that seller before the member states of
7 the Streamlined Sales and Use Tax Agreement.

8 Beginning July 1, 2008, "Certified Automated System" or
9 "CAS" means software certified under the Streamlined Sales and
10 Use Tax Agreement to calculate the tax imposed by each
11 jurisdiction on a transaction, determine the amount of tax to
12 remit to the appropriate state, and maintain a record of the
13 transaction.

14 Beginning July 1, 2008, "Certified Service Provider" or
15 "CSP" means an agent certified under the Streamlined Sales and
16 Use Tax Agreement to perform all the seller's sales and use tax
17 functions, other than the seller's obligation to remit tax on
18 its own purchases.

19 Beginning July 1, 2008, "Model 1 Seller" means a seller
20 that has selected a CSP as its agent to perform all the
21 seller's sales and use tax functions, other than the seller's
22 obligation to remit tax on its own purchases.

23 Beginning July 1, 2008, "Model 2 Seller" means a seller
24 that has selected a CAS to perform part of its sales and use
25 tax functions, but retains responsibility for remitting the
26 tax.

1 Beginning July 1, 2008, "Model 3 Seller" means a seller
2 that has sales in at least 5 member states, has total annual
3 sales revenue of at least \$500,000,000, has a proprietary
4 system that calculates the amount of tax due each jurisdiction,
5 and has entered into a performance agreement with the
6 Streamlined Sales and Use Tax Agreement member states that
7 establishes a tax performance standard for the seller. As used
8 in this definition, a seller includes an affiliated group of
9 sellers using the same proprietary system.

10 Beginning July 1, 2008, "food and food ingredients" means
11 substances, whether in liquid, concentrated, solid, frozen,
12 dried, or dehydrated form, that are sold for ingestion or
13 chewing by humans and are consumed for their taste or
14 nutritional value. "Food and food ingredients" does not include
15 "alcoholic beverages," "tobacco," or "soft drinks".

16 Beginning July 1, 2008, "prepared food" means:

17 (A) Food sold in a heated state or heated by the
18 seller;

19 (B) Two or more food ingredients mixed or combined by
20 the seller for sale as a single item (except for food that
21 is only cut, repackaged, or pasteurized by the seller, and
22 eggs, fish, meat, poultry, and foods containing these raw
23 animal foods requiring cooking by the consumer as
24 recommended by the Food and Drug Administration in chapter
25 3, part 401.11 of its Food Code so as to prevent food borne
26 illnesses); or

1 (C) Food sold with eating utensils provided by the
2 seller, including plates, knives, forks, spoons, glasses,
3 cups, napkins, or straws. A plate does not include a
4 container or packaging used to transport the food.

5 Subparts A and B of the definition of "prepared food" do
6 not apply to food sold in an unheated state by weight or volume
7 as a single item or bakery items, including bread, rolls, buns,
8 biscuits, bagels, croissants, pastries, donuts, Danish, cakes,
9 tortes, pies, tarts, muffins, bars, cookies, tortillas.

10 Beginning January 1, 2008, "soft drinks" mean
11 non-alcoholic beverages that contain natural or artificial
12 sweeteners. "Soft drinks" do not include beverages that contain
13 milk or milk products, soy, rice or similar milk substitutes,
14 or greater than 50% of vegetable or fruit juice by volume.

15 Beginning January 1, 2008 and through June 30, 2008, the
16 terms "medicine" and "drugs" do not include items that qualify
17 as grooming and hygiene products, unless those products are
18 available by prescription only.

19 Beginning July 1, 2008, "tangible personal property" means
20 personal property that can be seen, weighed, measured, felt, or
21 touched, or that is in any other manner perceptible to the
22 senses. "Tangible personal property" includes prewritten
23 computer software.

24 Beginning July 1, 2008, "drug" means a compound, substance
25 or preparation for human use, including insulin, and any
26 component of a compound, substance or preparation for human

1 use, other than "food and food ingredients," "dietary
2 supplements," "grooming and hygiene products," or "alcoholic
3 beverages":

4 (A) Recognized in the official United States
5 Pharmacopoeia, official Homeopathic Pharmacopoeia of the
6 United States, or official National Formulary, and
7 supplement to any of them; or

8 (B) Intended for use in the diagnosis, cure,
9 mitigation, treatment, or prevention of disease; or

10 (C) Intended to affect the structure or any function of
11 the body.

12 Beginning July 1, 2008, "prescription" means an order,
13 formula or recipe issued in any form of oral, written,
14 electronic, or other means of transmission by physician
15 licensed to practice medicine in all its branches under the
16 Medical Practice Act of 1987, a dentist licensed under the
17 Illinois Dental Practice Act, a podiatrist licensed under the
18 Podiatric Medical Practice Act of 1987, a physician assistant
19 licensed under the Physician Assistant Practice Act of 1987, or
20 an advanced practice nurse with a written collaborative
21 agreement under Section 15-15 and prescriptive authority in
22 accordance with Section 15-20 of the Nursing and Advanced
23 Practice Nursing Act.

24 Beginning July 1, 2008, "over-the-counter-drug" means a
25 drug for human use that contains a label that identifies the
26 product as a drug as required by 21 C.F.R. § 201.66. The

1 "over-the-counter-drug" label includes:

2 (A) A "Drug Facts" panel; or

3 (B) A statement of the "active ingredient(s)" with a
4 list of those ingredients contained in the compound,
5 substance or preparation.

6 Beginning January 1, 2008, "grooming and hygiene products"
7 are soaps and cleaning solutions, shampoo, toothpaste,
8 mouthwash, antiperspirants, and sun tan lotions and screens,
9 regardless of whether the items meet the definition of
10 "over-the-counter-drugs".

11 Beginning July 1, 2008, "prosthetic device" means a
12 replacement, corrective or supportive device including repair
13 and replacement parts for same worn on or in the body to:

14 (A) Artificially replace a missing portion of the body;

15 (B) Prevent or correct physical deformity or
16 malfunction; or

17 (C) Support a weak or deformed portion of the body.

18 Beginning July 1, 2008, "dietary supplement" means any
19 product, other than "tobacco," intended to supplement the diet
20 that:

21 (A) Contains one or more of the following dietary
22 ingredients:

23 (1) A vitamin;

24 (2) A mineral;

25 (3) An herb or other botanical;

26 (4) An amino acid;

1 (5) A dietary substance for use by humans to
2 supplement the diet by increasing the total dietary
3 intake; or

4 (6) A concentrate, metabolite, constituent,
5 extract, or combination of any ingredient described in
6 items (1) through (5) of this subparagraph (A); and

7 (B) Is intended for ingestion in tablet, capsule,
8 powder, softgel, gelcap, or liquid form, or if not intended
9 for ingestion in such a form, is not represented as
10 conventional food and is not represented for use as a sole
11 item of a meal or of the diet; and

12 (C) Is required to be labeled as a dietary supplement,
13 identifiable by the "Supplemental Facts" box found on the
14 label and as required pursuant to 21 C.F.R Section 101.36.

15 Beginning July 1, 2008, "alcoholic beverages" means
16 beverages that are suitable for human consumption and contain
17 one-half of one percent or more of alcohol by volume.

18 Beginning July 1, 2008, "tobacco" means cigarettes,
19 cigars, chewing or pipe tobacco, or any other item that
20 contains tobacco.

21 Beginning July 1, 2008, "direct mail" means printed
22 material delivered or distributed by United States mail or
23 other delivery service to a mass audience or to addressees on a
24 mailing list provided by the purchaser or at the direction of
25 the purchaser when the cost of the items are not billed
26 directly to the recipients. "Direct mail" includes tangible

1 personal property supplied directly or indirectly by the
2 purchaser to the direct mail seller for inclusion in the
3 package containing the printed material. "Direct mail" does not
4 include multiple items of printed material delivered to a
5 single address.

6 (Source: P.A. 94-1074, eff. 12-26-06.)

7 (35 ILCS 105/3) (from Ch. 120, par. 439.3)

8 Sec. 3. Tax imposed.

9 (a) A tax is imposed upon the privilege of using in this
10 State tangible personal property purchased at retail from a
11 retailer, including computer software, and including
12 photographs, negatives, and positives that are the product of
13 photoprocessing, but not including products of photoprocessing
14 produced for use in motion pictures for commercial exhibition.
15 Beginning January 1, 2001, prepaid telephone calling
16 arrangements shall be considered tangible personal property
17 subject to the tax imposed under this Act regardless of the
18 form in which those arrangements may be embodied, transmitted,
19 or fixed by any method now known or hereafter developed.

20 Beginning on January 1, 2008, computer software is no
21 longer taxable under this subsection (a) to the extent that and
22 for so long as it is taxable under subsection (b) of this
23 Section.

24 (b) Beginning on January 1, 2008, a tax is imposed upon the
25 privilege of using in this State prewritten computer software

1 transferred from a person engaged in the business of making
2 transfers of prewritten computer software.

3 The exemptions and exclusions from the tax imposed under
4 this Act with respect to the sale of tangible personal property
5 also apply with respect to the transfer of prewritten computer
6 software, regardless of the manner in which the prewritten
7 computer software is transferred.

8 A reference in this Act to the sale or purchase of tangible
9 personal property includes a reference to the transfer of
10 prewritten computer software where applicable; a reference in
11 this Act to a seller or retailer includes a reference to a
12 transferor where applicable; and a reference in this Act to a
13 purchaser includes a reference to a transferee where
14 applicable.

15 The changes made by this amendatory Act of the 95th General
16 Assembly with respect to prewritten computer software apply to
17 any payments made on or after January 1, 2008, regardless of
18 whether the payments are made under an existing agreement or
19 one entered into on or after January 1, 2008.

20 (c) For sales occurring on and after July, 2008, and
21 notwithstanding any other provision of this Act, the location
22 of where a sale takes place for purposes of this Act shall be
23 determined under the rules provided in subsection (c) of
24 Section 2 of the Retailers' Occupation Tax Act.

25 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

1 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

2 Sec. 3-5. Exemptions. Use of the following tangible
3 personal property is exempt from the tax imposed by this Act:

4 (1) Personal property purchased from a corporation,
5 society, association, foundation, institution, or
6 organization, other than a limited liability company, that is
7 organized and operated as a not-for-profit service enterprise
8 for the benefit of persons 65 years of age or older if the
9 personal property was not purchased by the enterprise for the
10 purpose of resale by the enterprise.

11 (2) Personal property purchased by a not-for-profit
12 Illinois county fair association for use in conducting,
13 operating, or promoting the county fair.

14 (3) Personal property purchased by a not-for-profit arts or
15 cultural organization that establishes, by proof required by
16 the Department by rule, that it has received an exemption under
17 Section 501(c)(3) of the Internal Revenue Code and that is
18 organized and operated primarily for the presentation or
19 support of arts or cultural programming, activities, or
20 services. These organizations include, but are not limited to,
21 music and dramatic arts organizations such as symphony
22 orchestras and theatrical groups, arts and cultural service
23 organizations, local arts councils, visual arts organizations,
24 and media arts organizations. On and after the effective date
25 of this amendatory Act of the 92nd General Assembly, however,
26 an entity otherwise eligible for this exemption shall not make

1 tax-free purchases unless it has an active identification
2 number issued by the Department.

3 (4) Personal property purchased by a governmental body, by
4 a corporation, society, association, foundation, or
5 institution organized and operated exclusively for charitable,
6 religious, or educational purposes, or by a not-for-profit
7 corporation, society, association, foundation, institution, or
8 organization that has no compensated officers or employees and
9 that is organized and operated primarily for the recreation of
10 persons 55 years of age or older. A limited liability company
11 may qualify for the exemption under this paragraph only if the
12 limited liability company is organized and operated
13 exclusively for educational purposes. On and after July 1,
14 1987, however, no entity otherwise eligible for this exemption
15 shall make tax-free purchases unless it has an active exemption
16 identification number issued by the Department.

17 (5) Until July 1, 2003, a passenger car that is a
18 replacement vehicle to the extent that the purchase price of
19 the car is subject to the Replacement Vehicle Tax.

20 (6) Until July 1, 2003 and beginning again on September 1,
21 2004, graphic arts machinery and equipment, including repair
22 and replacement parts, both new and used, and including that
23 manufactured on special order, certified by the purchaser to be
24 used primarily for graphic arts production, and including
25 machinery and equipment purchased for lease. Equipment
26 includes chemicals or chemicals acting as catalysts but only if

1 the chemicals or chemicals acting as catalysts effect a direct
2 and immediate change upon a graphic arts product.

3 (7) Farm chemicals.

4 (8) Legal tender, currency, medallions, or gold or silver
5 coinage issued by the State of Illinois, the government of the
6 United States of America, or the government of any foreign
7 country, and bullion.

8 (9) Personal property purchased from a teacher-sponsored
9 student organization affiliated with an elementary or
10 secondary school located in Illinois.

11 (10) A motor vehicle of the first division, a motor vehicle
12 of the second division that is a self-contained motor vehicle
13 designed or permanently converted to provide living quarters
14 for recreational, camping, or travel use, with direct walk
15 through to the living quarters from the driver's seat, or a
16 motor vehicle of the second division that is of the van
17 configuration designed for the transportation of not less than
18 7 nor more than 16 passengers, as defined in Section 1-146 of
19 the Illinois Vehicle Code, that is used for automobile renting,
20 as defined in the Automobile Renting Occupation and Use Tax
21 Act.

22 (11) Farm machinery and equipment, both new and used,
23 including that manufactured on special order, certified by the
24 purchaser to be used primarily for production agriculture or
25 State or federal agricultural programs, including individual
26 replacement parts for the machinery and equipment, including

1 machinery and equipment purchased for lease, and including
2 implements of husbandry defined in Section 1-130 of the
3 Illinois Vehicle Code, farm machinery and agricultural
4 chemical and fertilizer spreaders, and nurse wagons required to
5 be registered under Section 3-809 of the Illinois Vehicle Code,
6 but excluding other motor vehicles required to be registered
7 under the Illinois Vehicle Code. Horticultural polyhouses or
8 hoop houses used for propagating, growing, or overwintering
9 plants shall be considered farm machinery and equipment under
10 this item (11). Agricultural chemical tender tanks and dry
11 boxes shall include units sold separately from a motor vehicle
12 required to be licensed and units sold mounted on a motor
13 vehicle required to be licensed if the selling price of the
14 tender is separately stated.

15 Farm machinery and equipment shall include precision
16 farming equipment that is installed or purchased to be
17 installed on farm machinery and equipment including, but not
18 limited to, tractors, harvesters, sprayers, planters, seeders,
19 or spreaders. Precision farming equipment includes, but is not
20 limited to, soil testing sensors, computers, monitors,
21 software, global positioning and mapping systems, and other
22 such equipment.

23 Farm machinery and equipment also includes computers,
24 sensors, software, and related equipment used primarily in the
25 computer-assisted operation of production agriculture
26 facilities, equipment, and activities such as, but not limited

1 to, the collection, monitoring, and correlation of animal and
2 crop data for the purpose of formulating animal diets and
3 agricultural chemicals. This item (11) is exempt from the
4 provisions of Section 3-90.

5 (12) Fuel and petroleum products sold to or used by an air
6 common carrier, certified by the carrier to be used for
7 consumption, shipment, or storage in the conduct of its
8 business as an air common carrier, for a flight destined for or
9 returning from a location or locations outside the United
10 States without regard to previous or subsequent domestic
11 stopovers.

12 (13) Proceeds of mandatory service charges separately
13 stated on customers' bills for the purchase and consumption of
14 food and beverages purchased at retail from a retailer, to the
15 extent that the proceeds of the service charge are in fact
16 turned over as tips or as a substitute for tips to the
17 employees who participate directly in preparing, serving,
18 hosting or cleaning up the food or beverage function with
19 respect to which the service charge is imposed.

20 (14) Until July 1, 2003, oil field exploration, drilling,
21 and production equipment, including (i) rigs and parts of rigs,
22 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
23 tubular goods, including casing and drill strings, (iii) pumps
24 and pump-jack units, (iv) storage tanks and flow lines, (v) any
25 individual replacement part for oil field exploration,
26 drilling, and production equipment, and (vi) machinery and

1 equipment purchased for lease; but excluding motor vehicles
2 required to be registered under the Illinois Vehicle Code.

3 (15) Photoprocessing machinery and equipment, including
4 repair and replacement parts, both new and used, including that
5 manufactured on special order, certified by the purchaser to be
6 used primarily for photoprocessing, and including
7 photoprocessing machinery and equipment purchased for lease.

8 (16) Until July 1, 2003, coal exploration, mining,
9 offhighway hauling, processing, maintenance, and reclamation
10 equipment, including replacement parts and equipment, and
11 including equipment purchased for lease, but excluding motor
12 vehicles required to be registered under the Illinois Vehicle
13 Code.

14 (17) Until July 1, 2003, distillation machinery and
15 equipment, sold as a unit or kit, assembled or installed by the
16 retailer, certified by the user to be used only for the
17 production of ethyl alcohol that will be used for consumption
18 as motor fuel or as a component of motor fuel for the personal
19 use of the user, and not subject to sale or resale.

20 (18) Manufacturing and assembling machinery and equipment
21 used primarily in the process of manufacturing or assembling
22 tangible personal property for wholesale or retail sale or
23 lease, whether that sale or lease is made directly by the
24 manufacturer or by some other person, whether the materials
25 used in the process are owned by the manufacturer or some other
26 person, or whether that sale or lease is made apart from or as

1 an incident to the seller's engaging in the service occupation
2 of producing machines, tools, dies, jigs, patterns, gauges, or
3 other similar items of no commercial value on special order for
4 a particular purchaser.

5 (19) Personal property delivered to a purchaser or
6 purchaser's donee inside Illinois when the purchase order for
7 that personal property was received by a florist located
8 outside Illinois who has a florist located inside Illinois
9 deliver the personal property.

10 (20) Semen used for artificial insemination of livestock
11 for direct agricultural production.

12 (21) Horses, or interests in horses, registered with and
13 meeting the requirements of any of the Arabian Horse Club
14 Registry of America, Appaloosa Horse Club, American Quarter
15 Horse Association, United States Trotting Association, or
16 Jockey Club, as appropriate, used for purposes of breeding or
17 racing for prizes.

18 (22) Computers and communications equipment utilized for
19 any hospital purpose and equipment used in the diagnosis,
20 analysis, or treatment of hospital patients purchased by a
21 lessor who leases the equipment, under a lease of one year or
22 longer executed or in effect at the time the lessor would
23 otherwise be subject to the tax imposed by this Act, to a
24 hospital that has been issued an active tax exemption
25 identification number by the Department under Section 1g of the
26 Retailers' Occupation Tax Act. If the equipment is leased in a

1 manner that does not qualify for this exemption or is used in
2 any other non-exempt manner, the lessor shall be liable for the
3 tax imposed under this Act or the Service Use Tax Act, as the
4 case may be, based on the fair market value of the property at
5 the time the non-qualifying use occurs. No lessor shall collect
6 or attempt to collect an amount (however designated) that
7 purports to reimburse that lessor for the tax imposed by this
8 Act or the Service Use Tax Act, as the case may be, if the tax
9 has not been paid by the lessor. If a lessor improperly
10 collects any such amount from the lessee, the lessee shall have
11 a legal right to claim a refund of that amount from the lessor.
12 If, however, that amount is not refunded to the lessee for any
13 reason, the lessor is liable to pay that amount to the
14 Department.

15 (23) Personal property purchased by a lessor who leases the
16 property, under a lease of one year or longer executed or in
17 effect at the time the lessor would otherwise be subject to the
18 tax imposed by this Act, to a governmental body that has been
19 issued an active sales tax exemption identification number by
20 the Department under Section 1g of the Retailers' Occupation
21 Tax Act. If the property is leased in a manner that does not
22 qualify for this exemption or used in any other non-exempt
23 manner, the lessor shall be liable for the tax imposed under
24 this Act or the Service Use Tax Act, as the case may be, based
25 on the fair market value of the property at the time the
26 non-qualifying use occurs. No lessor shall collect or attempt

1 to collect an amount (however designated) that purports to
2 reimburse that lessor for the tax imposed by this Act or the
3 Service Use Tax Act, as the case may be, if the tax has not been
4 paid by the lessor. If a lessor improperly collects any such
5 amount from the lessee, the lessee shall have a legal right to
6 claim a refund of that amount from the lessor. If, however,
7 that amount is not refunded to the lessee for any reason, the
8 lessor is liable to pay that amount to the Department.

9 (24) Beginning with taxable years ending on or after
10 December 31, 1995 and ending with taxable years ending on or
11 before December 31, 2004, personal property that is donated for
12 disaster relief to be used in a State or federally declared
13 disaster area in Illinois or bordering Illinois by a
14 manufacturer or retailer that is registered in this State to a
15 corporation, society, association, foundation, or institution
16 that has been issued a sales tax exemption identification
17 number by the Department that assists victims of the disaster
18 who reside within the declared disaster area.

19 (25) Beginning with taxable years ending on or after
20 December 31, 1995 and ending with taxable years ending on or
21 before December 31, 2004, personal property that is used in the
22 performance of infrastructure repairs in this State, including
23 but not limited to municipal roads and streets, access roads,
24 bridges, sidewalks, waste disposal systems, water and sewer
25 line extensions, water distribution and purification
26 facilities, storm water drainage and retention facilities, and

1 sewage treatment facilities, resulting from a State or
2 federally declared disaster in Illinois or bordering Illinois
3 when such repairs are initiated on facilities located in the
4 declared disaster area within 6 months after the disaster.

5 (26) Beginning July 1, 1999, game or game birds purchased
6 at a "game breeding and hunting preserve area" or an "exotic
7 game hunting area" as those terms are used in the Wildlife Code
8 or at a hunting enclosure approved through rules adopted by the
9 Department of Natural Resources. This paragraph is exempt from
10 the provisions of Section 3-90.

11 (27) A motor vehicle, as that term is defined in Section
12 1-146 of the Illinois Vehicle Code, that is donated to a
13 corporation, limited liability company, society, association,
14 foundation, or institution that is determined by the Department
15 to be organized and operated exclusively for educational
16 purposes. For purposes of this exemption, "a corporation,
17 limited liability company, society, association, foundation,
18 or institution organized and operated exclusively for
19 educational purposes" means all tax-supported public schools,
20 private schools that offer systematic instruction in useful
21 branches of learning by methods common to public schools and
22 that compare favorably in their scope and intensity with the
23 course of study presented in tax-supported schools, and
24 vocational or technical schools or institutes organized and
25 operated exclusively to provide a course of study of not less
26 than 6 weeks duration and designed to prepare individuals to

1 follow a trade or to pursue a manual, technical, mechanical,
2 industrial, business, or commercial occupation.

3 (28) Beginning January 1, 2000, personal property,
4 including food, purchased through fundraising events for the
5 benefit of a public or private elementary or secondary school,
6 a group of those schools, or one or more school districts if
7 the events are sponsored by an entity recognized by the school
8 district that consists primarily of volunteers and includes
9 parents and teachers of the school children. This paragraph
10 does not apply to fundraising events (i) for the benefit of
11 private home instruction or (ii) for which the fundraising
12 entity purchases the personal property sold at the events from
13 another individual or entity that sold the property for the
14 purpose of resale by the fundraising entity and that profits
15 from the sale to the fundraising entity. This paragraph is
16 exempt from the provisions of Section 3-90.

17 (29) Beginning January 1, 2000 and through December 31,
18 2001, new or used automatic vending machines that prepare and
19 serve hot food and beverages, including coffee, soup, and other
20 items, and replacement parts for these machines. Beginning
21 January 1, 2002 and through June 30, 2003, machines and parts
22 for machines used in commercial, coin-operated amusement and
23 vending business if a use or occupation tax is paid on the
24 gross receipts derived from the use of the commercial,
25 coin-operated amusement and vending machines. This paragraph
26 is exempt from the provisions of Section 3-90.

1 (30) (A) Through June 30, 2008 ~~Beginning January 1, 2001~~
2 ~~and through June 30, 2011,~~ food for human consumption that is
3 to be consumed off the premises where it is sold (other than
4 alcoholic beverages, soft drinks, and food that has been
5 prepared for immediate consumption) and prescription and
6 nonprescription medicines, drugs, medical appliances, and
7 insulin, urine testing materials, syringes, and needles used by
8 diabetics, for human use, when purchased for use by a person
9 receiving medical assistance under Article 5 of the Illinois
10 Public Aid Code who resides in a licensed long-term care
11 facility, as defined in the Nursing Home Care Act.

12 (B) On and after July 1, 2008, food and food ingredients
13 (other than prepared food), drugs for human use available by
14 prescription only, and over-the-counter-drugs for human use
15 (other than grooming and hygiene products) when purchased for
16 use by a person receiving medical assistance under Article 5 of
17 the Illinois Public Aid Code who resides in a licensed long
18 term care facility, as defined in the Nursing Home Care Act.
19 This paragraph is exempt from the provisions of Section 3-90.

20 (31) Beginning on the effective date of this amendatory Act
21 of the 92nd General Assembly, computers and communications
22 equipment utilized for any hospital purpose and equipment used
23 in the diagnosis, analysis, or treatment of hospital patients
24 purchased by a lessor who leases the equipment, under a lease
25 of one year or longer executed or in effect at the time the
26 lessor would otherwise be subject to the tax imposed by this

1 Act, to a hospital that has been issued an active tax exemption
2 identification number by the Department under Section 1g of the
3 Retailers' Occupation Tax Act. If the equipment is leased in a
4 manner that does not qualify for this exemption or is used in
5 any other nonexempt manner, the lessor shall be liable for the
6 tax imposed under this Act or the Service Use Tax Act, as the
7 case may be, based on the fair market value of the property at
8 the time the nonqualifying use occurs. No lessor shall collect
9 or attempt to collect an amount (however designated) that
10 purports to reimburse that lessor for the tax imposed by this
11 Act or the Service Use Tax Act, as the case may be, if the tax
12 has not been paid by the lessor. If a lessor improperly
13 collects any such amount from the lessee, the lessee shall have
14 a legal right to claim a refund of that amount from the lessor.
15 If, however, that amount is not refunded to the lessee for any
16 reason, the lessor is liable to pay that amount to the
17 Department. This paragraph is exempt from the provisions of
18 Section 3-90.

19 (32) Beginning on the effective date of this amendatory Act
20 of the 92nd General Assembly, personal property purchased by a
21 lessor who leases the property, under a lease of one year or
22 longer executed or in effect at the time the lessor would
23 otherwise be subject to the tax imposed by this Act, to a
24 governmental body that has been issued an active sales tax
25 exemption identification number by the Department under
26 Section 1g of the Retailers' Occupation Tax Act. If the

1 property is leased in a manner that does not qualify for this
2 exemption or used in any other nonexempt manner, the lessor
3 shall be liable for the tax imposed under this Act or the
4 Service Use Tax Act, as the case may be, based on the fair
5 market value of the property at the time the nonqualifying use
6 occurs. No lessor shall collect or attempt to collect an amount
7 (however designated) that purports to reimburse that lessor for
8 the tax imposed by this Act or the Service Use Tax Act, as the
9 case may be, if the tax has not been paid by the lessor. If a
10 lessor improperly collects any such amount from the lessee, the
11 lessee shall have a legal right to claim a refund of that
12 amount from the lessor. If, however, that amount is not
13 refunded to the lessee for any reason, the lessor is liable to
14 pay that amount to the Department. This paragraph is exempt
15 from the provisions of Section 3-90.

16 (33) On and after July 1, 2003 and through June 30, 2004,
17 the use in this State of motor vehicles of the second division
18 with a gross vehicle weight in excess of 8,000 pounds and that
19 are subject to the commercial distribution fee imposed under
20 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
21 1, 2004 and through June 30, 2005, the use in this State of
22 motor vehicles of the second division: (i) with a gross vehicle
23 weight rating in excess of 8,000 pounds; (ii) that are subject
24 to the commercial distribution fee imposed under Section
25 3-815.1 of the Illinois Vehicle Code; and (iii) that are
26 primarily used for commercial purposes. Through June 30, 2005,

1 this exemption applies to repair and replacement parts added
2 after the initial purchase of such a motor vehicle if that
3 motor vehicle is used in a manner that would qualify for the
4 rolling stock exemption otherwise provided for in this Act. For
5 purposes of this paragraph, the term "used for commercial
6 purposes" means the transportation of persons or property in
7 furtherance of any commercial or industrial enterprise,
8 whether for-hire or not.

9 (34) On and after July 1, 2008, a "prosthetic device" as
10 defined in Section 2 of this Act. This paragraph is exempt from
11 the provisions of Section 3-90.

12 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,
13 eff. 7-30-04; 93-1033, eff. 9-3-04; 94-1002, eff. 7-3-06.)

14 (35 ILCS 105/3-5.1 new)

15 Sec. 3-5.1. Computer software exemptions. Prewritten
16 computer software is exempt from the tax imposed under this Act
17 if the software is transferred by a license meeting the
18 requirements of subsection (a) and the transfer meets the
19 criteria of either subsection (b) or subsection (c).

20 (a) To be exempt from this Section, the prewritten computer
21 software must be transferred by a license meeting the following
22 criteria:

23 (1) the license is evidenced by a written agreement
24 signed by the licensor and the customer;

25 (2) the license restricts the customer's duplication

1 and use of the software;

2 (3) the license prohibits the customer from licensing,
3 sublicensing, or transferring the software to a third party
4 (except to a related party) without the permission and
5 continued control of the licensor;

6 (4) the licensor has a policy of providing another copy
7 at minimal or no charge if the customer loses or damages
8 the software, or of permitting the licensee to make and
9 keep an archival copy, and the policy is either stated in
10 the license agreement, supported by the licensor's books
11 and records, or supported by a notarized statement made
12 under penalties of perjury by the licensor; and

13 (5) the customer must destroy or return all copies of
14 the software to the licensor at the end of the license
15 period. This provision is deemed to be met, in the case of
16 a perpetual license, without being set forth in the license
17 agreement.

18 (b) Prewritten computer software that is transferred by a
19 license that meets the requirements of subsection (a) is exempt
20 from the tax imposed under this Act if it is primarily used
21 directly in the transmitting of, supplying of, furnishing of,
22 or billing for telecommunications that are taxable under the
23 Telecommunications Excise Tax Act.

24 (c) Prewritten computer software that is transferred by a
25 license that meets the requirements of subsection (a) is exempt
26 from the tax imposed under this Act to the extent that it is

1 directly used by a person engaged primarily in the business of
2 manufacturing or assembling tangible personal property for
3 wholesale or retail sale or lease.

4 If prewritten computer software licensed to the licensee is
5 directly used by persons engaged primarily in the business of
6 manufacturing or assembling tangible personal property for
7 wholesale or retail sale or lease and also used by persons not
8 engaged primarily in the business of manufacturing or
9 assembling tangible personal property for wholesale or retail
10 sale or lease, the licensee may provide the licensor with a
11 properly executed percentage certificate of exemption and the
12 license is tax-exempt to the extent the prewritten computer
13 software is directly used by persons engaged primarily in the
14 business of manufacturing or assembling tangible personal
15 property for wholesale or retail sale or lease.

16 For purposes of this subsection (c), the terms
17 "manufacturing" and "assembling" have the same meanings as the
18 terms "manufacturing process" and "assembly process" are
19 defined in Section 2-45 of the Retailers' Occupation Tax Act.

20 (35 ILCS 105/3-5.5)

21 Sec. 3-5.5. Food and drugs sold by not-for-profit
22 organizations; exemption.

23 (a) Through June 30, 2008, the ~~The~~ Department shall not
24 collect the 1% tax imposed on food for human consumption that
25 is to be consumed off the premises where it is sold (other than

1 alcoholic beverages, soft drinks, and food that has been
2 prepared for immediate consumption) and prescription
3 medicines, and nonprescription medicines (other than,
4 beginning January 1, 2008, grooming and hygiene products),
5 drugs (other than, beginning January 1, 2008, grooming and
6 hygiene products), medical appliances, and insulin, urine
7 testing materials, syringes, and needles used by diabetics, for
8 human use from any not-for-profit organization, that sells food
9 in a food distribution program at a price below the retail cost
10 of the food to purchasers who, as a condition of participation
11 in the program, are required to perform community service,
12 located in a county or municipality that notifies the
13 Department, in writing, that the county or municipality does
14 not want the tax to be collected from any of such organizations
15 located in the county or municipality.

16 (b) On and after July 1, 2008, the Department shall not
17 collect the 1% tax imposed on food and food ingredients (other
18 than prepared food), drugs for human use available by
19 prescription only, and over-the-counter-drugs for human use
20 (other than grooming and hygiene products) from any
21 not-for-profit organization, that sells food in a food
22 distribution program at a price below the retail cost of the
23 food to purchasers who, as a condition of participation in the
24 program, are required to perform community service, located in
25 a county or municipality that notifies the Department, in
26 writing, that the county or municipality does not want the tax

1 to be collected from any of such organizations located in the
2 county or municipality. This paragraph is exempt from the
3 provisions of Section 3-90.

4 (Source: P.A. 88-374.)

5 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

6 Sec. 3-10. Rate of tax. Unless otherwise provided in this
7 Section, the tax imposed by this Act is at the rate of 6.25% of
8 either the selling price or the fair market value, if any, of
9 the tangible personal property. In all cases where property
10 functionally used or consumed is the same as the property that
11 was purchased at retail, then the tax is imposed on the selling
12 price of the property. In all cases where property functionally
13 used or consumed is a by-product or waste product that has been
14 refined, manufactured, or produced from property purchased at
15 retail, then the tax is imposed on the lower of the fair market
16 value, if any, of the specific property so used in this State
17 or on the selling price of the property purchased at retail.
18 For purposes of this Section "fair market value" means the
19 price at which property would change hands between a willing
20 buyer and a willing seller, neither being under any compulsion
21 to buy or sell and both having reasonable knowledge of the
22 relevant facts. The fair market value shall be established by
23 Illinois sales by the taxpayer of the same property as that
24 functionally used or consumed, or if there are no such sales by
25 the taxpayer, then comparable sales or purchases of property of

1 like kind and character in Illinois.

2 Beginning on January 1, 2008, the tax imposed by subsection
3 (b) of Section 3 of this Act is at the rate of 6.25% of the
4 transfer price of prewritten computer software.

5 Beginning on July 1, 2000 and through December 31, 2000,
6 with respect to motor fuel, as defined in Section 1.1 of the
7 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
8 the Use Tax Act, the tax is imposed at the rate of 1.25%.

9 With respect to gasohol, the tax imposed by this Act
10 applies to (i) 70% of the proceeds of sales made on or after
11 January 1, 1990, and before July 1, 2003, (ii) 80% of the
12 proceeds of sales made on or after July 1, 2003 and on or
13 before December 31, 2013, and (iii) 100% of the proceeds of
14 sales made thereafter. If, at any time, however, the tax under
15 this Act on sales of gasohol is imposed at the rate of 1.25%,
16 then the tax imposed by this Act applies to 100% of the
17 proceeds of sales of gasohol made during that time.

18 With respect to majority blended ethanol fuel, the tax
19 imposed by this Act does not apply to the proceeds of sales
20 made on or after July 1, 2003 and on or before December 31,
21 2013 but applies to 100% of the proceeds of sales made
22 thereafter.

23 With respect to biodiesel blends with no less than 1% and
24 no more than 10% biodiesel, the tax imposed by this Act applies
25 to (i) 80% of the proceeds of sales made on or after July 1,
26 2003 and on or before December 31, 2013 and (ii) 100% of the

1 proceeds of sales made thereafter. If, at any time, however,
2 the tax under this Act on sales of biodiesel blends with no
3 less than 1% and no more than 10% biodiesel is imposed at the
4 rate of 1.25%, then the tax imposed by this Act applies to 100%
5 of the proceeds of sales of biodiesel blends with no less than
6 1% and no more than 10% biodiesel made during that time.

7 With respect to 100% biodiesel and biodiesel blends with
8 more than 10% but no more than 99% biodiesel, the tax imposed
9 by this Act does not apply to the proceeds of sales made on or
10 after July 1, 2003 and on or before December 31, 2013 but
11 applies to 100% of the proceeds of sales made thereafter.

12 Except as otherwise provided in this paragraph, the
13 provisions of this paragraph apply through June 30, 2008. With
14 respect to food for human consumption that is to be consumed
15 off the premises where it is sold (other than alcoholic
16 beverages, soft drinks, and food that has been prepared for
17 immediate consumption) and prescription medicines, and
18 nonprescription medicines (other than, beginning January 1,
19 2008, grooming and hygiene products), drugs (other than,
20 beginning January 1, 2008, grooming and hygiene products),
21 medical appliances, modifications to a motor vehicle for the
22 purpose of rendering it usable by a disabled person, and
23 insulin, urine testing materials, syringes, and needles used by
24 diabetics, for human use, the tax is imposed at the rate of 1%.
25 For the purposes of this Section, through December 31, 2007 the
26 term "soft drinks" means any complete, finished, ready-to-use,

1 non-alcoholic drink, whether carbonated or not, including but
2 not limited to soda water, cola, fruit juice, vegetable juice,
3 carbonated water, and all other preparations commonly known as
4 soft drinks of whatever kind or description that are contained
5 in any closed or sealed bottle, can, carton, or container,
6 regardless of size. Through December 31, 2007, "soft drinks"
7 ~~"Soft drinks"~~ does not include coffee, tea, non-carbonated
8 water, infant formula, milk or milk products as defined in the
9 Grade A Pasteurized Milk and Milk Products Act, or drinks
10 containing 50% or more natural fruit or vegetable juice.

11 On and after July 1, 2008, with respect to food and food
12 ingredients for human use (other than prepared food), drugs for
13 human use available by prescription only, and
14 over-the-counter-drugs (other than grooming and hygiene
15 products) for human use the tax is imposed at the rate of 1%.

16 Through June 30, 2008, notwithstanding ~~Notwithstanding~~ any
17 other provisions of this Act, "food for human consumption that
18 is to be consumed off the premises where it is sold" includes
19 all food sold through a vending machine, except soft drinks and
20 food products that are dispensed hot from a vending machine,
21 regardless of the location of the vending machine.

22 On and after July 1, 2008, notwithstanding any other
23 provisions of this Act, "food and food ingredients" includes
24 all food sold through a vending machine, except soft drinks and
25 food products that are dispensed hot from a vending machine.

26 If the property that is purchased at retail from a retailer

1 is acquired outside Illinois and used outside Illinois before
2 being brought to Illinois for use here and is taxable under
3 this Act, the "selling price" on which the tax is computed
4 shall be reduced by an amount that represents a reasonable
5 allowance for depreciation for the period of prior out-of-state
6 use.

7 Beginning on July 1, 2008, the Department shall provide
8 sellers with as much advance notice as possible of any tax rate
9 change under this Act and provide notice of any changes in the
10 tax base and amendments to sales and use tax rules and
11 regulations. Any tax rate change under this Act shall only take
12 effect on the first day of a calendar quarter.

13 (Source: P.A. 93-17, eff. 6-11-03.)

14 (35 ILCS 105/3-10.2 new)

15 Sec. 3-10.2. Rounding rule. Beginning July 1, 2008, to
16 determine the proper amount of tax due under this Act, the tax
17 computation must be carried to the third decimal place, and the
18 tax must be rounded to a whole cent using a method that rounds
19 up to the next cent whenever the third decimal place is greater
20 than 4. The taxpayer may compute the tax due on a transaction
21 on an item or an invoice basis. The rounding rule provided in
22 this Section is to be applied to the aggregated state and local
23 taxes or reimbursement of local taxes incurred by the taxpayer.

24 (35 ILCS 105/3-10.3 new)

1 Sec. 3-10.3. Electronic database; relief for incorrect
2 data in database. Upon the State of Illinois becoming a member
3 of the Streamlined Sales and Use Tax Agreement and in
4 conformance with the required effective dates set by the
5 governing board of the Streamlined Sales and Use Tax Agreement
6 for the availability and use of the database, the Department
7 shall create and maintain an electronic database of all State
8 and local Retailers' Occupation Tax and Use Tax rates for all
9 jurisdictions levying such taxes in this State. The database
10 shall be provided and maintained in the manner required by
11 Section 305 of the Streamlined Sales and Use Tax Agreement.
12 Taxpayers and Certified Service Providers are relieved from
13 liability to the State and local jurisdictions for paying tax
14 under this Act or any local tax resulting from that taxpayer or
15 Certified Service Provider relying on erroneous data contained
16 in the database (other than an address based database as
17 described in subsection (G) of Section 305 of the Streamlined
18 Sales and Use Tax Agreement or pursuant to the federal Mobile
19 Telecommunications Sourcing Act). Such relief from liability
20 shall not apply when the purchased product is received by the
21 purchaser at the business location of the seller.

22 (35 ILCS 105/3-10.5)

23 Sec. 3-10.5. Direct payment of retailers' occupation tax
24 and applicable local retailers' occupation tax by purchaser;
25 purchaser relieved of paying use tax and local retailers'

1 occupation tax reimbursement liabilities to retailer, direct
2 mail sourcing.

3 (a) A retailer who makes a retail sale of tangible personal
4 property to a purchaser who provides the retailer with a copy
5 of the purchaser's valid Direct Pay Permit issued under Section
6 2-10.5 of the Retailers' Occupation Tax Act is not required
7 under Section 3-45 of this Act to collect the tax imposed by
8 this Act on that sale.

9 (b) A purchaser who makes a purchase from a retailer who
10 would otherwise incur retailers' occupation tax liability on
11 the transaction and who provides the retailer with a copy of a
12 valid Direct Pay Permit issued under Section 2-10.5 of the
13 Retailers' Occupation Tax Act does not incur the tax imposed by
14 this Act on the purchase. The purchaser assumes the retailer's
15 obligation to pay the retailers' occupation tax directly to the
16 Department, including all local retailers' occupation tax
17 liabilities applicable to that retail sale.

18 (c) A purchaser who makes a purchase from a retailer who
19 would not incur retailers' occupation tax liability on the
20 transaction and who provides the retailer with a copy of a
21 valid Direct Pay Permit issued under Section 2-10.5 of the
22 Retailers' Occupation Tax Act incurs the tax imposed by this
23 Act on the purchase. If, on any transaction, the retailer is
24 entitled under this Act to a discount for collecting and
25 remitting the tax imposed under this Act to the Department, the
26 right to the discount provided in Section 9 of this Act shall

1 be transferred to the Permit holder. If the retailer would not
2 be entitled to a discount as provided in Section 9 of this Act,
3 then the Permit holder is not entitled to a discount.

4 (d) Direct mail sourcing:

5 (1) Notwithstanding the sourcing provisions of Section
6 3 of this Act, a purchaser of direct mail that is not a
7 holder of a direct pay permit shall provide to the seller
8 in conjunction with the purchase either a Direct Mail Form
9 or information to show the jurisdictions to which the
10 direct mail is delivered to recipients. Upon receipt of the
11 Direct Mail Form, the seller is relieved of all obligations
12 to collect, pay, or remit the applicable tax and the
13 purchaser is obligated to pay or remit the applicable tax
14 on a direct pay basis. A Direct Mail Form shall remain in
15 effect for all future sales of direct mail by the seller to
16 the purchaser until it is revoked in writing. Upon receipt
17 of information from the purchaser showing the
18 jurisdictions to which the direct mail is delivered to
19 recipients, the seller shall collect the tax according to
20 the delivery information provided by the purchaser. In the
21 absence of bad faith, the seller is relieved of any further
22 obligation to collect tax on any transaction where the
23 seller has collected tax pursuant to the delivery
24 information provided by the purchaser.

25 (2) If the purchaser of direct mail does not have a
26 direct pay permit and does not provide the seller with

1 either a Direct Mail Form or delivery information, as
2 required by subpart (1) of this subsection (d), the seller
3 shall collect the tax according to part 5 of the sourcing
4 rules contained in subsection (b) of Section 2 of the
5 Retailers' Occupation Tax Act. Nothing in this paragraph
6 shall limit a purchaser's obligation for sales or use tax
7 to any state to which the direct mail is delivered.

8 (3) If a purchaser of direct mail provides the seller
9 with documentation of direct pay authority, the purchaser
10 shall not be required to provide a Direct Mail Form or
11 delivery information to the seller.

12 This subsection (d) takes effect on July 1, 2008.

13 (Source: P.A. 92-484, eff. 8-23-01.)

14 (35 ILCS 105/3-25) (from Ch. 120, par. 439.3-25)

15 Sec. 3-25. Computer software; prewritten computer
16 software; upgrades.

17 (a) Through December 31, 2007, for ~~For~~ the purposes of this
18 Act, "computer software" means a set of statements, data, or
19 instructions to be used directly or indirectly in a computer in
20 order to bring about a certain result in any form in which
21 those statements, data, or instructions may be embodied,
22 transmitted, or fixed, by any method now known or hereafter
23 developed, regardless of whether the statements, data, or
24 instructions are capable of being perceived by or communicated
25 to humans, and includes prewritten or canned software that is

1 held for repeated sale or lease, and all associated
2 documentation and materials, if any, whether contained on
3 magnetic tapes, discs, cards, or other devices or media, but
4 does not include software that is adapted to specific
5 individualized requirements of a purchaser, custom-made and
6 modified software designed for a particular or limited use by a
7 purchaser, or software used to operate exempt machinery and
8 equipment used in the process of manufacturing or assembling
9 tangible personal property for wholesale or retail sale or
10 lease.

11 For the purposes of this Act, computer software shall be
12 considered to be tangible personal property.

13 (b) On and after January 1, 2008, "computer software" has
14 the meaning set forth in Section 2 of this Act and includes a
15 set of statements, data, or instructions to be used directly or
16 indirectly in a computer in order to bring about a certain
17 result in any form in which those statements, data, or
18 instructions may be embodied, transmitted, or fixed, by any
19 method now known or hereafter developed, regardless of whether
20 the statements, data, or instructions are capable of being
21 perceived by or communicated to humans, and includes prewritten
22 or canned software that is held for repeated sale, license,
23 lease, or rental, and all associated documentation and
24 materials, if any, whether contained on magnetic tapes, discs,
25 cards, or other devices or media.

26 (c) On and after January 1, 2008, "prewritten computer

1 software" has the meaning set forth in Section 2 of this Act.

2 (d) On and after January 1, 2008, if prewritten computer
3 software is bundled with charges for training, telephone
4 assistance, installation, consulting or other services and is
5 transferred for one non-itemized price, then the tax imposed on
6 the transfer of the prewritten computer software is calculated
7 based on the non-itemized price. If, however, there is a
8 reasonable separately stated charge on an invoice or other
9 statement of the price given to the transferee for the
10 prewritten computer software, then the tax under this Act shall
11 be imposed only on the transfer price for the prewritten
12 computer software.

13 (Source: P.A. 91-51, eff. 6-30-99.)

14 (35 ILCS 105/3-45) (from Ch. 120, par. 439.3-45)

15 Sec. 3-45. Collection. The tax imposed by subsection (a) of
16 Section 3 of this Act shall be collected from the purchaser by
17 a retailer maintaining a place of business in this State or a
18 retailer authorized by the Department under Section 6 of this
19 Act, and shall be remitted to the Department as provided in
20 Section 9 of this Act, except as provided in Section 3-10.5 of
21 this Act.

22 The tax imposed by subsection (a) of Section 3 of this Act
23 that is not paid to a retailer under this Section shall be paid
24 to the Department directly by any person using the property
25 within this State as provided in Section 10 of this Act.

1 Retailers shall collect the tax from users by adding the
2 tax to the selling price of tangible personal property, when
3 sold for use, in the manner prescribed by the Department.
4 Beginning July 1, 2008, retailers shall use the rounding rules
5 provided in Section 3-10.2 of this Act. Through June 30, 2008,
6 the ~~The~~ Department may adopt and promulgate reasonable rules
7 and regulations for the adding of the tax by retailers to
8 selling prices by prescribing bracket systems for the purpose
9 of enabling the retailers to add and collect, as far as
10 practicable, the amount of the tax.

11 If a seller collects use tax measured by receipts that are
12 not subject to use tax, or if a seller, in collecting use tax
13 measured by receipts that are subject to tax under this Act,
14 collects more from the purchaser than the required amount of
15 the use tax on the transaction, the purchaser shall have a
16 legal right to claim a refund of that amount from the seller.
17 If, however, that amount is not refunded to the purchaser for
18 any reason, the seller is liable to pay that amount to the
19 Department. This paragraph does not apply to an amount
20 collected by the seller as use tax on receipts that are subject
21 to tax under this Act as long as, through June 30, 2008, the
22 collection is made in compliance with the tax collection
23 brackets prescribed by the Department in its rules and
24 regulations and, beginning on July 1, 2008, the collection is
25 made in compliance with Section 3-10.2 of this Act and the
26 Department's rules and regulations.

1 (b) The tax imposed by subsection (b) of Section 3 of this
2 Act shall be collected from the transferee by a transferor
3 maintaining a place of business in this State or a transferor
4 authorized by the Department under Section 6 of this Act, and
5 shall be remitted to the Department as provided in Section 9 of
6 this Act, except as provided in Section 3-10.6 of this Act.

7 The tax imposed by subsection (b) of Section 3 of this Act
8 that is not paid to a transferor under this Section shall be
9 paid to the Department directly by any person receiving the
10 right to use or possess prewritten computer software within
11 this State as provided in Section 10 of this Act.

12 Transferors shall collect the tax from transferees by
13 adding the tax to the transfer price in accord with Section
14 3-10.2 of this Act and in the manner prescribed by the
15 Department.

16 If a transferor collects a tax measured by receipts that
17 are not subject to a tax, or if a transferor, in collecting tax
18 measured by receipts that are subject to tax under this Act,
19 collects more from the transferee than the required amount of
20 the tax on the transfer, the transferee shall have the legal
21 right to claim a refund of that amount from the transferor. If
22 however, that amount is not refunded to the transferee for any
23 reason, the transferor is liable to pay that amount to the
24 Department. This paragraph does not apply to an amount
25 collected by the transferor as tax on receipts that are subject
26 to tax under this Act as long as, through June 30, 2008, the

1 collection is made in compliance with the tax collection
2 brackets prescribed by the Department in its rules and
3 regulations and, beginning on July 1, 2008, the collection is
4 made in compliance with Section 3-10.2 of this Act and the
5 Department's rules and regulations.

6 (Source: P.A. 91-51, eff. 6-30-99; 92-484, eff. 8-23-01.)

7 (35 ILCS 105/6) (from Ch. 120, par. 439.6)

8 Sec. 6. A retailer maintaining a place of business in this
9 State, or a transferor maintaining a place of business in this
10 State, if required to register under the Retailers' Occupation
11 Tax Act, need not obtain an additional Certificate of
12 Registration under this Act, but shall be deemed to be
13 sufficiently registered by virtue of his being registered under
14 the Retailers' Occupation Tax Act. Every retailer maintaining a
15 place of business in this State, or a transferor maintaining a
16 place of business in this State, if not required to register
17 under the Retailers' Occupation Tax Act, shall apply to the
18 Department (upon a form prescribed and furnished by the
19 Department) for a Certificate of Registration under this Act.
20 In completing such application, the applicant shall furnish
21 such information as the Department may reasonably require. Upon
22 approval of an application for Certificate of Registration, the
23 Department shall issue, without charge, a Certificate of
24 Registration to the applicant. Such Certificate of
25 Registration shall be displayed at the address which the

1 applicant states in his application to be the principal place
2 of business or location from which he will act as a retailer or
3 transferor in this State. If the applicant will act as a
4 retailer or transferor in this State from other places of
5 business or locations, he shall list the addresses of such
6 additional places of business or locations in this application
7 for Certificate of Registration, and the Department shall issue
8 a Sub-Certificate of Registration to the applicant for each
9 such additional place of business or location. Each
10 Sub-Certificate of Registration shall be conspicuously
11 displayed at the place for which it is issued. Such
12 Sub-Certificate of Registration shall bear the same
13 registration number as that appearing upon the Certificate of
14 Registration to which such Sub-Certificates relate. Where a
15 retailer or transferor operates more than one place of business
16 which is subject to registration under this Section and such
17 businesses are substantially different in character or are
18 engaged in under different trade names or are engaged in under
19 other substantially dissimilar circumstances (so that it is
20 more practicable, from an accounting, auditing or bookkeeping
21 standpoint, for such businesses to be separately registered),
22 the Department may require or permit such person to apply for
23 and obtain a separate Certificate of Registration for each such
24 business or for any of such businesses instead of registering
25 such person, as to all such businesses, under a single
26 Certificate of Registration supplemented by related

1 Sub-Certificates of Registration. No Certificate of
2 Registration shall be issued to any person who is in default to
3 the State of Illinois for moneys due hereunder.

4 The Department may, in its discretion, upon application,
5 authorize the collection of the tax herein imposed by any
6 retailer not maintaining a place of business within this State,
7 or a transferor not maintaining a place of business in this
8 State, who, to the satisfaction of the Department, furnishes
9 adequate security to insure collection and payment of the tax.
10 Such retailer or transferor shall be issued, without charge, a
11 permit to collect such tax. When so authorized, it shall be the
12 duty of such retailer to collect the tax upon all tangible
13 personal property sold to his knowledge for use within this
14 State or the duty of such transferor to collect the tax upon
15 all prewritten computer software transferred with his
16 knowledge for use in this State, in the same manner and subject
17 to the same requirements, including the furnishing of a receipt
18 to the purchaser or transferee (if demanded by the purchaser or
19 transferee), as a retailer maintaining a place of business
20 within this State or a transferor maintaining a place of
21 business in this State. The receipt given to the purchaser or
22 transferee shall be sufficient to relieve him from further
23 liability for the tax to which such receipt may refer. Such
24 permit may be revoked by the Department as provided herein.

25 Beginning July 1, 2008, an applicant for registration that
26 chooses to register under the Streamlined Sales and Use Tax

1 Agreement and that is not otherwise required to be registered
2 under this Act, may register through the Streamlined Sales Tax
3 online registration system. No signature is required for such
4 registration through that system and an agent may register on
5 behalf of an applicant under the procedures set forth under
6 that system and rules adopted by the Department. Applicants for
7 registration that choose to register under the Streamlined
8 Sales and Use Tax Agreement and are required to be registered
9 under this Act may register through the Streamlined Sales Tax
10 online registration system, but will also be required to
11 provide any additional information and documentation required
12 under this Section before that applicant is properly registered
13 in this State. By registering under the Streamlined Sales and
14 Use Tax Agreement, the seller agrees to collect and remit sales
15 and use taxes for all taxable sales into Streamlined Sales Tax
16 Agreement member states, including member states that join
17 after the sellers' registration.

18 (Source: Laws 1955, p. 2027.)

19 (35 ILCS 105/8) (from Ch. 120, par. 439.8)

20 Sec. 8. Any retailer or transferor required to collect the
21 tax imposed by this Act shall be liable to the Department for
22 such tax, whether or not the tax has been collected by the
23 retailer or transferor, except when the retailer or transferor
24 is relieved of the duty of remitting the tax to the Department
25 by virtue of having paid a tax imposed by the Retailers'

1 Occupation Tax Act upon his or her gross receipts from the same
2 transactions or, beginning July 1, 2008, except for sales made
3 through a Certified Service Provider when the retailer or
4 transferor has chosen to be a Model 1 seller. Any Certified
5 Service Provider required to collect the tax imposed by this
6 Act shall be liable to the Department for such tax, whether or
7 not the tax has been collected by the Certified Service
8 Provider, except when the Certified Service Provider is
9 relieved of the duty of remitting the tax to the Department by
10 virtue of having paid a tax imposed by the Retailers'
11 Occupation Tax Act upon its gross receipts from the same
12 transactions. To the extent that a retailer or transferor or
13 Certified Service Provider required to collect the tax imposed
14 by this Act has actually collected that tax, such tax is held
15 in trust for the benefit of the Department.

16 (Source: P.A. 91-203, eff. 7-20-99.)

17 (35 ILCS 105/9) (from Ch. 120, par. 439.9)

18 Sec. 9. Except as to motor vehicles, watercraft, aircraft,
19 and trailers that are required to be registered with an agency
20 of this State, each retailer or transferor required or
21 authorized to collect the tax imposed by this Act shall pay to
22 the Department the amount of such tax (except as otherwise
23 provided) at the time when he is required to file his return
24 for the period during which such tax was collected, less a
25 discount of 2.1% prior to January 1, 1990, and 1.75% on and

1 after January 1, 1990, or \$5 per calendar year, whichever is
2 greater, which is allowed to reimburse the retailer or
3 transferor for expenses incurred in collecting the tax, keeping
4 records, preparing and filing returns, remitting the tax and
5 supplying data to the Department on request. In the case of
6 retailers or transferors who report and pay the tax on a
7 transaction by transaction basis, as provided in this Section,
8 such discount shall be taken with each such tax remittance
9 instead of when such retailer or transferor files his periodic
10 return. A retailer or transferor need not remit that part of
11 any tax collected by him to the extent that he is required to
12 remit and does remit the tax imposed by the Retailers'
13 Occupation Tax Act, with respect to the sale of the same
14 property or transfer of the same right to use or possess
15 prewritten computer software.

16 Where such tangible personal property is sold or the right
17 to use or possess such prewritten computer software is
18 transferred under a conditional sales contract, or under any
19 other form of sale or transfer wherein the payment of the
20 principal sum, or a part thereof, is extended beyond the close
21 of the period for which the return is filed, the retailer or
22 transferor, in collecting the tax (except as to motor vehicles,
23 watercraft, aircraft, and trailers that are required to be
24 registered with an agency of this State), may collect for each
25 tax return period, only the tax applicable to that part of the
26 selling price or transfer price actually received during such

1 tax return period.

2 Except as provided in this Section, on or before the
3 twentieth day of each calendar month, such retailer or
4 transferor shall file a return for the preceding calendar
5 month. Such return shall be filed on forms prescribed by the
6 Department and shall furnish such information as the Department
7 may reasonably require.

8 The Department may require returns to be filed on a
9 quarterly basis. If so required, a return for each calendar
10 quarter shall be filed on or before the twentieth day of the
11 calendar month following the end of such calendar quarter. The
12 taxpayer shall also file a return with the Department for each
13 of the first two months of each calendar quarter, on or before
14 the twentieth day of the following calendar month, stating:

15 1. The name of the seller;

16 2. The address of the principal place of business from
17 which he engages in the business of selling tangible
18 personal property at retail or transferring prewritten
19 computer software in this State;

20 3. The total amount of taxable receipts received by him
21 during the preceding calendar month from sales of tangible
22 personal property, or transfers of prewritten computer
23 software, by him during such preceding calendar month,
24 including receipts from charge and time sales, but less all
25 deductions allowed by law;

26 4. The amount of credit provided in Section 2d of this

1 Act;

2 5. The amount of tax due;

3 5-5. The signature of the taxpayer; and

4 6. Such other reasonable information as the Department
5 may require.

6 If a taxpayer fails to sign a return within 30 days after
7 the proper notice and demand for signature by the Department,
8 the return shall be considered valid and any amount shown to be
9 due on the return shall be deemed assessed.

10 The provisions of this paragraph are effective beginning on
11 July 1, 2008. Sellers that have chosen to be Model 1 sellers
12 are not required to file returns and remit tax to the
13 Department for sales made through a Certified Service Provider.
14 Each Certified Service Provider for a Model I seller shall file
15 returns and pay the appropriate amount of tax to the Department
16 in the same manner as other taxpayers that are registered under
17 the Streamlined Sales and Use Tax Agreement. In lieu of the
18 return described in this Section, taxpayers, other than Model 1
19 taxpayers, that have chosen to be registered under the
20 Streamlined Sales and Use Tax Agreement and Certified Service
21 Providers shall submit returns in a simplified format that
22 conforms to the requirements set forth by the Governing Board
23 of the Streamlined Sales and Use Tax Agreement. Such taxpayers
24 and Certified Service Providers shall file additional
25 informational returns developed by the Department every six
26 months under the staggered system set forth by the Governing

1 Board of the Streamlined Sales and Use Tax Agreement. The
2 Department may require by rule that the simplified returns and
3 informational returns be filed in an electronic format. The
4 Department shall by regulation provide guidance to allow a
5 Certified Service Provider a deduction for bad debts as is
6 allowed to taxpayers that report and remit tax directly to the
7 Department, consistent with Section 166 of the Internal Revenue
8 Code and such other adjustments as the Department may require
9 in regulation.

10 Beginning October 1, 1993, a taxpayer who has an average
11 monthly tax liability of \$150,000 or more shall make all
12 payments required by rules of the Department by electronic
13 funds transfer. Beginning October 1, 1994, a taxpayer who has
14 an average monthly tax liability of \$100,000 or more shall make
15 all payments required by rules of the Department by electronic
16 funds transfer. Beginning October 1, 1995, a taxpayer who has
17 an average monthly tax liability of \$50,000 or more shall make
18 all payments required by rules of the Department by electronic
19 funds transfer. Beginning October 1, 2000, a taxpayer who has
20 an annual tax liability of \$200,000 or more shall make all
21 payments required by rules of the Department by electronic
22 funds transfer. The term "annual tax liability" shall be the
23 sum of the taxpayer's liabilities under this Act, and under all
24 other State and local occupation and use tax laws administered
25 by the Department, for the immediately preceding calendar year.
26 The term "average monthly tax liability" means the sum of the

1 taxpayer's liabilities under this Act, and under all other
2 State and local occupation and use tax laws administered by the
3 Department, for the immediately preceding calendar year
4 divided by 12. Beginning on October 1, 2002, a taxpayer who has
5 a tax liability in the amount set forth in subsection (b) of
6 Section 2505-210 of the Department of Revenue Law shall make
7 all payments required by rules of the Department by electronic
8 funds transfer. Beginning July 1, 2008, in addition to the
9 requirements of this Section, taxpayers that have chosen to be
10 registered under the Streamlined Sales and Use Tax Agreement
11 and any Certified Service Providers shall make all payments of
12 tax imposed under this Act through the use of electronic funds
13 transfer.

14 Before August 1 of each year beginning in 1993, the
15 Department shall notify all taxpayers required to make payments
16 by electronic funds transfer. All taxpayers required to make
17 payments by electronic funds transfer shall make those payments
18 for a minimum of one year beginning on October 1.

19 Any taxpayer not required to make payments by electronic
20 funds transfer may make payments by electronic funds transfer
21 with the permission of the Department.

22 All taxpayers required to make payment by electronic funds
23 transfer and any taxpayers authorized to voluntarily make
24 payments by electronic funds transfer shall make those payments
25 in the manner authorized by the Department.

26 The Department shall adopt such rules as are necessary to

1 effectuate a program of electronic funds transfer and the
2 requirements of this Section.

3 On and after July 1, 2008, if the taxpayer's average
4 monthly tax liability to the Department under this Act, the
5 Retailers' Occupation Tax Act, the Service Occupation Tax Act,
6 and the Service Use Tax Act was greater than \$30,000 during the
7 preceding calendar year, he shall file a return with the
8 Department each month by the 20th day of the month next
9 following the month during which such tax liability is incurred
10 and shall make payment to the Department on or before the 7th,
11 15th, 22nd and last day of the month during which such
12 liability is incurred.

13 Before October 1, 2000, if the taxpayer's average monthly
14 tax liability to the Department under this Act, the Retailers'
15 Occupation Tax Act, the Service Occupation Tax Act, the Service
16 Use Tax Act was \$10,000 or more during the preceding 4 complete
17 calendar quarters, he shall file a return with the Department
18 each month by the 20th day of the month next following the
19 month during which such tax liability is incurred and shall
20 make payments to the Department on or before the 7th, 15th,
21 22nd and last day of the month during which such liability is
22 incurred. On and after October 1, 2000, through June 30, 2008,
23 if the taxpayer's average monthly tax liability to the
24 Department under this Act, the Retailers' Occupation Tax Act,
25 the Service Occupation Tax Act, and the Service Use Tax Act was
26 \$20,000 or more during the preceding 4 complete calendar

1 quarters, he shall file a return with the Department each month
2 by the 20th day of the month next following the month during
3 which such tax liability is incurred and shall make payment to
4 the Department on or before the 7th, 15th, 22nd and last day of
5 the month during which such liability is incurred. If the month
6 during which such tax liability is incurred began prior to
7 January 1, 1985, each payment shall be in an amount equal to
8 1/4 of the taxpayer's actual liability for the month or an
9 amount set by the Department not to exceed 1/4 of the average
10 monthly liability of the taxpayer to the Department for the
11 preceding 4 complete calendar quarters (excluding the month of
12 highest liability and the month of lowest liability in such 4
13 quarter period). If the month during which such tax liability
14 is incurred begins on or after January 1, 1985, and prior to
15 January 1, 1987, each payment shall be in an amount equal to
16 22.5% of the taxpayer's actual liability for the month or 27.5%
17 of the taxpayer's liability for the same calendar month of the
18 preceding year. If the month during which such tax liability is
19 incurred begins on or after January 1, 1987, and prior to
20 January 1, 1988, each payment shall be in an amount equal to
21 22.5% of the taxpayer's actual liability for the month or
22 26.25% of the taxpayer's liability for the same calendar month
23 of the preceding year. If the month during which such tax
24 liability is incurred begins on or after January 1, 1988, and
25 prior to January 1, 1989, or begins on or after January 1,
26 1996, each payment shall be in an amount equal to 22.5% of the

1 taxpayer's actual liability for the month or 25% of the
2 taxpayer's liability for the same calendar month of the
3 preceding year. If the month during which such tax liability is
4 incurred begins on or after January 1, 1989, and prior to
5 January 1, 1996, each payment shall be in an amount equal to
6 22.5% of the taxpayer's actual liability for the month or 25%
7 of the taxpayer's liability for the same calendar month of the
8 preceding year or 100% of the taxpayer's actual liability for
9 the quarter monthly reporting period. The amount of such
10 quarter monthly payments shall be credited against the final
11 tax liability of the taxpayer's return for that month. Before
12 October 1, 2000, once applicable, the requirement of the making
13 of quarter monthly payments to the Department shall continue
14 until such taxpayer's average monthly liability to the
15 Department during the preceding 4 complete calendar quarters
16 (excluding the month of highest liability and the month of
17 lowest liability) is less than \$9,000, or until such taxpayer's
18 average monthly liability to the Department as computed for
19 each calendar quarter of the 4 preceding complete calendar
20 quarter period is less than \$10,000. However, if a taxpayer can
21 show the Department that a substantial change in the taxpayer's
22 business has occurred which causes the taxpayer to anticipate
23 that his average monthly tax liability for the reasonably
24 foreseeable future will fall below the \$10,000 threshold stated
25 above, then such taxpayer may petition the Department for
26 change in such taxpayer's reporting status. On and after

1 October 1, 2000, through June 30, 2008, once applicable, the
2 requirement of the making of quarter monthly payments to the
3 Department shall continue until such taxpayer's average
4 monthly liability to the Department during the preceding 4
5 complete calendar quarters (excluding the month of highest
6 liability and the month of lowest liability) is less than
7 \$19,000 or until such taxpayer's average monthly liability to
8 the Department as computed for each calendar quarter of the 4
9 preceding complete calendar quarter period is less than
10 \$20,000. On and after July 1, 2008, once applicable, the
11 requirement of the making of quarter monthly payments to the
12 Department shall continue until such taxpayer's average
13 monthly liability to the Department during the preceding
14 calendar year is \$30,000 or less. However, if a taxpayer can
15 show the Department that a substantial change in the taxpayer's
16 business has occurred which causes the taxpayer to anticipate
17 that his average monthly tax liability for the reasonably
18 foreseeable future will fall below the \$20,000 threshold stated
19 above, then such taxpayer may petition the Department for a
20 change in such taxpayer's reporting status. The Department
21 shall change such taxpayer's reporting status unless it finds
22 that such change is seasonal in nature and not likely to be
23 long term. If any such quarter monthly payment is not paid at
24 the time or in the amount required by this Section, then the
25 taxpayer shall be liable for penalties and interest on the
26 difference between the minimum amount due and the amount of

1 such quarter monthly payment actually and timely paid, except
2 insofar as the taxpayer has previously made payments for that
3 month to the Department in excess of the minimum payments
4 previously due as provided in this Section. The Department
5 shall make reasonable rules and regulations to govern the
6 quarter monthly payment amount and quarter monthly payment
7 dates for taxpayers who file on other than a calendar monthly
8 basis.

9 If any such payment provided for in this Section exceeds
10 the taxpayer's liabilities under this Act, the Retailers'
11 Occupation Tax Act, the Service Occupation Tax Act and the
12 Service Use Tax Act, as shown by an original monthly return,
13 the Department shall issue to the taxpayer a credit memorandum
14 no later than 30 days after the date of payment, which
15 memorandum may be submitted by the taxpayer to the Department
16 in payment of tax liability subsequently to be remitted by the
17 taxpayer to the Department or be assigned by the taxpayer to a
18 similar taxpayer under this Act, the Retailers' Occupation Tax
19 Act, the Service Occupation Tax Act or the Service Use Tax Act,
20 in accordance with reasonable rules and regulations to be
21 prescribed by the Department, except that if such excess
22 payment is shown on an original monthly return and is made
23 after December 31, 1986, no credit memorandum shall be issued,
24 unless requested by the taxpayer. If no such request is made,
25 the taxpayer may credit such excess payment against tax
26 liability subsequently to be remitted by the taxpayer to the

1 Department under this Act, the Retailers' Occupation Tax Act,
2 the Service Occupation Tax Act or the Service Use Tax Act, in
3 accordance with reasonable rules and regulations prescribed by
4 the Department. If the Department subsequently determines that
5 all or any part of the credit taken was not actually due to the
6 taxpayer, the taxpayer's 2.1% or 1.75% vendor's discount shall
7 be reduced by 2.1% or 1.75% of the difference between the
8 credit taken and that actually due, and the taxpayer shall be
9 liable for penalties and interest on such difference.

10 If the taxpayer ~~retailer~~ is otherwise required to file a
11 monthly return and if the taxpayer's ~~retailer's~~ average monthly
12 tax liability to the Department does not exceed \$200, the
13 Department may authorize his returns to be filed on a quarter
14 annual basis, with the return for January, February, and March
15 of a given year being due by April 20 of such year; with the
16 return for April, May and June of a given year being due by
17 July 20 of such year; with the return for July, August and
18 September of a given year being due by October 20 of such year,
19 and with the return for October, November and December of a
20 given year being due by January 20 of the following year.

21 If the taxpayer ~~retailer~~ is otherwise required to file a
22 monthly or quarterly return and if the taxpayer's ~~retailer's~~
23 average monthly tax liability to the Department does not exceed
24 \$50, the Department may authorize his returns to be filed on an
25 annual basis, with the return for a given year being due by
26 January 20 of the following year.

1 Such quarter annual and annual returns, as to form and
2 substance, shall be subject to the same requirements as monthly
3 returns.

4 Notwithstanding any other provision in this Act concerning
5 the time within which a retailer or transferor may file his
6 return, in the case of any retailer or transferor who ceases to
7 engage in a kind of business which makes him responsible for
8 filing returns under this Act, such retailer or transferor
9 shall file a final return under this Act with the Department
10 not more than one month after discontinuing such business.

11 In addition, with respect to motor vehicles, watercraft,
12 aircraft, and trailers that are required to be registered with
13 an agency of this State, every retailer selling this kind of
14 tangible personal property shall file, with the Department,
15 upon a form to be prescribed and supplied by the Department, a
16 separate return for each such item of tangible personal
17 property which the retailer sells, except that if, in the same
18 transaction, (i) a retailer of aircraft, watercraft, motor
19 vehicles or trailers transfers more than one aircraft,
20 watercraft, motor vehicle or trailer to another aircraft,
21 watercraft, motor vehicle or trailer retailer for the purpose
22 of resale or (ii) a retailer of aircraft, watercraft, motor
23 vehicles, or trailers transfers more than one aircraft,
24 watercraft, motor vehicle, or trailer to a purchaser for use as
25 a qualifying rolling stock as provided in Section 3-55 of this
26 Act, then that seller may report the transfer of all the

1 aircraft, watercraft, motor vehicles or trailers involved in
2 that transaction to the Department on the same uniform
3 invoice-transaction reporting return form. For purposes of
4 this Section, "watercraft" means a Class 2, Class 3, or Class 4
5 watercraft as defined in Section 3-2 of the Boat Registration
6 and Safety Act, a personal watercraft, or any boat equipped
7 with an inboard motor.

8 The transaction reporting return in the case of motor
9 vehicles or trailers that are required to be registered with an
10 agency of this State, shall be the same document as the Uniform
11 Invoice referred to in Section 5-402 of the Illinois Vehicle
12 Code and must show the name and address of the seller; the name
13 and address of the purchaser; the amount of the selling price
14 including the amount allowed by the retailer for traded-in
15 property, if any; the amount allowed by the retailer for the
16 traded-in tangible personal property, if any, to the extent to
17 which Section 2 of this Act allows an exemption for the value
18 of traded-in property; the balance payable after deducting such
19 trade-in allowance from the total selling price; the amount of
20 tax due from the retailer with respect to such transaction; the
21 amount of tax collected from the purchaser by the retailer on
22 such transaction (or satisfactory evidence that such tax is not
23 due in that particular instance, if that is claimed to be the
24 fact); the place and date of the sale; a sufficient
25 identification of the property sold; such other information as
26 is required in Section 5-402 of the Illinois Vehicle Code, and

1 such other information as the Department may reasonably
2 require.

3 The transaction reporting return in the case of watercraft
4 and aircraft must show the name and address of the seller; the
5 name and address of the purchaser; the amount of the selling
6 price including the amount allowed by the retailer for
7 traded-in property, if any; the amount allowed by the retailer
8 for the traded-in tangible personal property, if any, to the
9 extent to which Section 2 of this Act allows an exemption for
10 the value of traded-in property; the balance payable after
11 deducting such trade-in allowance from the total selling price;
12 the amount of tax due from the retailer with respect to such
13 transaction; the amount of tax collected from the purchaser by
14 the retailer on such transaction (or satisfactory evidence that
15 such tax is not due in that particular instance, if that is
16 claimed to be the fact); the place and date of the sale, a
17 sufficient identification of the property sold, and such other
18 information as the Department may reasonably require.

19 Such transaction reporting return shall be filed not later
20 than 20 days after the date of delivery of the item that is
21 being sold, but may be filed by the retailer at any time sooner
22 than that if he chooses to do so. The transaction reporting
23 return and tax remittance or proof of exemption from the tax
24 that is imposed by this Act may be transmitted to the
25 Department by way of the State agency with which, or State
26 officer with whom, the tangible personal property must be

1 titled or registered (if titling or registration is required)
2 if the Department and such agency or State officer determine
3 that this procedure will expedite the processing of
4 applications for title or registration.

5 With each such transaction reporting return, the retailer
6 shall remit the proper amount of tax due (or shall submit
7 satisfactory evidence that the sale is not taxable if that is
8 the case), to the Department or its agents, whereupon the
9 Department shall issue, in the purchaser's name, a tax receipt
10 (or a certificate of exemption if the Department is satisfied
11 that the particular sale is tax exempt) which such purchaser
12 may submit to the agency with which, or State officer with
13 whom, he must title or register the tangible personal property
14 that is involved (if titling or registration is required) in
15 support of such purchaser's application for an Illinois
16 certificate or other evidence of title or registration to such
17 tangible personal property.

18 No retailer's failure or refusal to remit tax under this
19 Act precludes a user, who has paid the proper tax to the
20 retailer, from obtaining his certificate of title or other
21 evidence of title or registration (if titling or registration
22 is required) upon satisfying the Department that such user has
23 paid the proper tax (if tax is due) to the retailer. The
24 Department shall adopt appropriate rules to carry out the
25 mandate of this paragraph.

26 If the user who would otherwise pay tax to the retailer

1 wants the transaction reporting return filed and the payment of
2 tax or proof of exemption made to the Department before the
3 retailer is willing to take these actions and such user has not
4 paid the tax to the retailer, such user may certify to the fact
5 of such delay by the retailer, and may (upon the Department
6 being satisfied of the truth of such certification) transmit
7 the information required by the transaction reporting return
8 and the remittance for tax or proof of exemption directly to
9 the Department and obtain his tax receipt or exemption
10 determination, in which event the transaction reporting return
11 and tax remittance (if a tax payment was required) shall be
12 credited by the Department to the proper retailer's account
13 with the Department, but without the 2.1% or 1.75% discount
14 provided for in this Section being allowed. When the user pays
15 the tax directly to the Department, he shall pay the tax in the
16 same amount and in the same form in which it would be remitted
17 if the tax had been remitted to the Department by the retailer.

18 Where a retailer collects the tax with respect to the
19 selling price of tangible personal property which he sells and
20 the purchaser thereafter returns such tangible personal
21 property and the retailer refunds the selling price thereof to
22 the purchaser, such retailer shall also refund, to the
23 purchaser, the tax so collected from the purchaser. When filing
24 his return for the period in which he refunds such tax to the
25 purchaser, the retailer may deduct the amount of the tax so
26 refunded by him to the purchaser from any other use tax which

1 such retailer may be required to pay or remit to the
2 Department, as shown by such return, if the amount of the tax
3 to be deducted was previously remitted to the Department by
4 such retailer. If the retailer has not previously remitted the
5 amount of such tax to the Department, he is entitled to no
6 deduction under this Act upon refunding such tax to the
7 purchaser.

8 Any retailer filing a return under this Section shall also
9 include (for the purpose of paying tax thereon) the total tax
10 covered by such return upon the selling price of tangible
11 personal property purchased by him at retail from a retailer,
12 but as to which the tax imposed by this Act was not collected
13 from the retailer filing such return, and such retailer shall
14 remit the amount of such tax to the Department when filing such
15 return.

16 Any transferor filing a return under this Section shall
17 also include (for the purpose of paying tax thereon) the total
18 tax covered by such return upon the transfer price of
19 prewritten computer software transferred to him from a
20 transferor, but as to which the tax imposed by this Act was not
21 collected from the transferor filing such return, and such
22 transferor shall remit the amount of such tax to the Department
23 when filing such return.

24 If experience indicates such action to be practicable, the
25 Department may prescribe and furnish a combination or joint
26 return which will enable retailers, who are required to file

1 returns hereunder and also under the Retailers' Occupation Tax
2 Act, to furnish all the return information required by both
3 Acts on the one form.

4 Where the taxpayer ~~retailer~~ has more than one business
5 registered with the Department under separate registration
6 under this Act, such taxpayer ~~retailer~~ may not file each return
7 that is due as a single return covering all such registered
8 businesses, but shall file separate returns for each such
9 registered business.

10 Beginning January 1, 1990, each month the Department shall
11 pay into the State and Local Sales Tax Reform Fund, a special
12 fund in the State Treasury which is hereby created, the net
13 revenue realized for the preceding month from the 1% tax on
14 sales of food for human consumption which is to be consumed off
15 the premises where it is sold (other than alcoholic beverages,
16 soft drinks and food which has been prepared for immediate
17 consumption) and prescription and nonprescription medicines,
18 drugs, medical appliances and insulin, urine testing
19 materials, syringes and needles used by diabetics.

20 Beginning July 1, 2008, each month the Department shall pay
21 into the State and Local Sales Tax Reform Fund, a special fund
22 in the State Treasury which is hereby created, the net revenue
23 realized for the preceding month from the 1% tax on sales of
24 food and food ingredients (other than prepared food), drugs for
25 human use available by prescription only, and
26 over-the-counter-drugs for human use (other than grooming and

1 hygiene products).

2 Beginning January 1, 1990, each month the Department shall
3 pay into the County and Mass Transit District Fund 4% of the
4 net revenue realized for the preceding month from the 6.25%
5 general rate on the selling price of tangible personal property
6 which is purchased outside Illinois at retail from a retailer
7 and which is titled or registered by an agency of this State's
8 government.

9 Beginning January 1, 1990, each month the Department shall
10 pay into the State and Local Sales Tax Reform Fund, a special
11 fund in the State Treasury, 20% of the net revenue realized for
12 the preceding month from the 6.25% rate imposed on the transfer
13 price of prewritten computer software and the 6.25% general
14 rate on the selling price of tangible personal property, other
15 than tangible personal property which is purchased outside
16 Illinois at retail from a retailer and which is titled or
17 registered by an agency of this State's government.

18 Beginning August 1, 2000, each month the Department shall
19 pay into the State and Local Sales Tax Reform Fund 100% of the
20 net revenue realized for the preceding month from the 1.25%
21 rate on the selling price of motor fuel and gasohol.

22 Beginning January 1, 1990, each month the Department shall
23 pay into the Local Government Tax Fund 16% of the net revenue
24 realized for the preceding month from the 6.25% general rate on
25 the selling price of tangible personal property which is
26 purchased outside Illinois at retail from a retailer and which

1 is titled or registered by an agency of this State's
2 government.

3 Of the remainder of the moneys received by the Department
4 pursuant to this Act, (a) 1.75% thereof shall be paid into the
5 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on
6 and after July 1, 1989, 3.8% thereof shall be paid into the
7 Build Illinois Fund; provided, however, that if in any fiscal
8 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
9 may be, of the moneys received by the Department and required
10 to be paid into the Build Illinois Fund pursuant to Section 3
11 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax
12 Act, Section 9 of the Service Use Tax Act, and Section 9 of the
13 Service Occupation Tax Act, such Acts being hereinafter called
14 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case
15 may be, of moneys being hereinafter called the "Tax Act
16 Amount", and (2) the amount transferred to the Build Illinois
17 Fund from the State and Local Sales Tax Reform Fund shall be
18 less than the Annual Specified Amount (as defined in Section 3
19 of the Retailers' Occupation Tax Act), an amount equal to the
20 difference shall be immediately paid into the Build Illinois
21 Fund from other moneys received by the Department pursuant to
22 the Tax Acts; and further provided, that if on the last
23 business day of any month the sum of (1) the Tax Act Amount
24 required to be deposited into the Build Illinois Bond Account
25 in the Build Illinois Fund during such month and (2) the amount
26 transferred during such month to the Build Illinois Fund from

1 the State and Local Sales Tax Reform Fund shall have been less
2 than 1/12 of the Annual Specified Amount, an amount equal to
3 the difference shall be immediately paid into the Build
4 Illinois Fund from other moneys received by the Department
5 pursuant to the Tax Acts; and, further provided, that in no
6 event shall the payments required under the preceding proviso
7 result in aggregate payments into the Build Illinois Fund
8 pursuant to this clause (b) for any fiscal year in excess of
9 the greater of (i) the Tax Act Amount or (ii) the Annual
10 Specified Amount for such fiscal year; and, further provided,
11 that the amounts payable into the Build Illinois Fund under
12 this clause (b) shall be payable only until such time as the
13 aggregate amount on deposit under each trust indenture securing
14 Bonds issued and outstanding pursuant to the Build Illinois
15 Bond Act is sufficient, taking into account any future
16 investment income, to fully provide, in accordance with such
17 indenture, for the defeasance of or the payment of the
18 principal of, premium, if any, and interest on the Bonds
19 secured by such indenture and on any Bonds expected to be
20 issued thereafter and all fees and costs payable with respect
21 thereto, all as certified by the Director of the Bureau of the
22 Budget (now Governor's Office of Management and Budget). If on
23 the last business day of any month in which Bonds are
24 outstanding pursuant to the Build Illinois Bond Act, the
25 aggregate of the moneys deposited in the Build Illinois Bond
26 Account in the Build Illinois Fund in such month shall be less

1 than the amount required to be transferred in such month from
2 the Build Illinois Bond Account to the Build Illinois Bond
3 Retirement and Interest Fund pursuant to Section 13 of the
4 Build Illinois Bond Act, an amount equal to such deficiency
5 shall be immediately paid from other moneys received by the
6 Department pursuant to the Tax Acts to the Build Illinois Fund;
7 provided, however, that any amounts paid to the Build Illinois
8 Fund in any fiscal year pursuant to this sentence shall be
9 deemed to constitute payments pursuant to clause (b) of the
10 preceding sentence and shall reduce the amount otherwise
11 payable for such fiscal year pursuant to clause (b) of the
12 preceding sentence. The moneys received by the Department
13 pursuant to this Act and required to be deposited into the
14 Build Illinois Fund are subject to the pledge, claim and charge
15 set forth in Section 12 of the Build Illinois Bond Act.

16 Subject to payment of amounts into the Build Illinois Fund
17 as provided in the preceding paragraph or in any amendment
18 thereto hereafter enacted, the following specified monthly
19 installment of the amount requested in the certificate of the
20 Chairman of the Metropolitan Pier and Exposition Authority
21 provided under Section 8.25f of the State Finance Act, but not
22 in excess of the sums designated as "Total Deposit", shall be
23 deposited in the aggregate from collections under Section 9 of
24 the Use Tax Act, Section 9 of the Service Use Tax Act, Section
25 9 of the Service Occupation Tax Act, and Section 3 of the
26 Retailers' Occupation Tax Act into the McCormick Place

1 Expansion Project Fund in the specified fiscal years.

2		Total
	Fiscal Year	Deposit
3	1993	\$0
4	1994	53,000,000
5	1995	58,000,000
6	1996	61,000,000
7	1997	64,000,000
8	1998	68,000,000
9	1999	71,000,000
10	2000	75,000,000
11	2001	80,000,000
12	2002	93,000,000
13	2003	99,000,000
14	2004	103,000,000
15	2005	108,000,000
16	2006	113,000,000
17	2007	119,000,000
18	2008	126,000,000
19	2009	132,000,000
20	2010	139,000,000
21	2011	146,000,000
22	2012	153,000,000
23	2013	161,000,000
24	2014	170,000,000
25	2015	179,000,000

1	2016	189,000,000
2	2017	199,000,000
3	2018	210,000,000
4	2019	221,000,000
5	2020	233,000,000
6	2021	246,000,000
7	2022	260,000,000
8	2023 and	275,000,000

9 each fiscal year

10 thereafter that bonds

11 are outstanding under

12 Section 13.2 of the

13 Metropolitan Pier and

14 Exposition Authority Act,

15 but not after fiscal year 2042.

16 Beginning July 20, 1993 and in each month of each fiscal
17 year thereafter, one-eighth of the amount requested in the
18 certificate of the Chairman of the Metropolitan Pier and
19 Exposition Authority for that fiscal year, less the amount
20 deposited into the McCormick Place Expansion Project Fund by
21 the State Treasurer in the respective month under subsection
22 (g) of Section 13 of the Metropolitan Pier and Exposition
23 Authority Act, plus cumulative deficiencies in the deposits
24 required under this Section for previous months and years,
25 shall be deposited into the McCormick Place Expansion Project
26 Fund, until the full amount requested for the fiscal year, but

1 not in excess of the amount specified above as "Total Deposit",
2 has been deposited.

3 Subject to payment of amounts into the Build Illinois Fund
4 and the McCormick Place Expansion Project Fund pursuant to the
5 preceding paragraphs or in any amendments thereto hereafter
6 enacted, beginning July 1, 1993, the Department shall each
7 month pay into the Illinois Tax Increment Fund 0.27% of 80% of
8 the net revenue realized for the preceding month from the 6.25%
9 general rate on the selling price of tangible personal property
10 and the 6.25% rate on the transfer price of prewritten computer
11 software.

12 Subject to payment of amounts into the Build Illinois Fund
13 and the McCormick Place Expansion Project Fund pursuant to the
14 preceding paragraphs or in any amendments thereto hereafter
15 enacted, beginning with the receipt of the first report of
16 taxes paid by an eligible business and continuing for a 25-year
17 period, the Department shall each month pay into the Energy
18 Infrastructure Fund 80% of the net revenue realized from the
19 6.25% general rate on the selling price of Illinois-mined coal
20 that was sold to an eligible business. For purposes of this
21 paragraph, the term "eligible business" means a new electric
22 generating facility certified pursuant to Section 605-332 of
23 the Department of Commerce and Economic Opportunity Law of the
24 Civil Administrative Code of Illinois.

25 Of the remainder of the moneys received by the Department
26 pursuant to this Act, 75% thereof shall be paid into the State

1 Treasury and 25% shall be reserved in a special account and
2 used only for the transfer to the Common School Fund as part of
3 the monthly transfer from the General Revenue Fund in
4 accordance with Section 8a of the State Finance Act.

5 As soon as possible after the first day of each month, upon
6 certification of the Department of Revenue, the Comptroller
7 shall order transferred and the Treasurer shall transfer from
8 the General Revenue Fund to the Motor Fuel Tax Fund an amount
9 equal to 1.7% of 80% of the net revenue realized under this Act
10 for the second preceding month. Beginning April 1, 2000, this
11 transfer is no longer required and shall not be made.

12 Net revenue realized for a month shall be the revenue
13 collected by the State pursuant to this Act, less the amount
14 paid out during that month as refunds to taxpayers for
15 overpayment of liability.

16 For greater simplicity of administration, manufacturers,
17 importers and wholesalers whose products are sold at retail in
18 Illinois by numerous retailers, and who wish to do so, may
19 assume the responsibility for accounting and paying to the
20 Department all tax accruing under this Act with respect to such
21 sales, if the retailers who are affected do not make written
22 objection to the Department to this arrangement.

23 (Source: P.A. 94-793, eff. 5-19-06; 94-1074, eff. 12-26-06.)

24 (35 ILCS 105/10) (from Ch. 120, par. 439.10)

25 Sec. 10. Except as to motor vehicles, aircraft, watercraft,

1 and trailers, when tangible personal property is purchased from
2 a retailer for use in this State by a purchaser who did not pay
3 the tax imposed by this Act to the retailer or when prewritten
4 computer software is transferred from a transferor for use in
5 this State by a transferee who did not pay the tax imposed by
6 this Act to the transferor, and the purchaser or transferee ~~who~~
7 does not file returns with the Department as a retailer or
8 transferor under Section 9 of this Act, such purchaser or
9 transferee (by the last day of the month following the calendar
10 month in which such purchaser or transferee makes any payment
11 upon the selling price of such property or upon the transfer
12 price for the prewritten computer software) shall, except as
13 provided in this Section, file a return with the Department and
14 pay the tax upon that portion of the selling price so paid by
15 the purchaser or the transfer price paid by the transferee
16 during the preceding calendar month. When tangible personal
17 property, including but not limited to motor vehicles and
18 aircraft, is purchased by a lessor, under a lease for one year
19 or longer, executed or in effect at the time of purchase to an
20 interstate carrier for hire, who did not pay the tax imposed by
21 this Act to the retailer, such lessor (by the last day of the
22 month following the calendar month in which such property
23 reverts to the use of such lessor) shall file a return with the
24 Department and pay the tax upon the fair market value of such
25 property on the date of such reversion. However, in determining
26 the fair market value at the time of reversion, the fair market

1 value of such property shall not exceed the original purchase
2 price of the property that was paid by the lessor at the time
3 of purchase. Such return shall be filed on a form prescribed by
4 the Department and shall contain such information as the
5 Department may reasonably require. Such return and payment from
6 the purchaser shall be submitted to the Department sooner than
7 the last day of the month after the month in which the purchase
8 is made to the extent that that may be necessary in order to
9 secure the title to a motor vehicle or the certificate of
10 registration for an aircraft. However, except as to motor
11 vehicles and aircraft, if the purchaser's annual use tax
12 liability does not exceed \$600, the purchaser may file the
13 return on an annual basis on or before April 15th of the year
14 following the year use tax liability was incurred.

15 In addition with respect to motor vehicles, aircraft,
16 watercraft, and trailers, a purchaser of such tangible personal
17 property for use in this State, who purchases such tangible
18 personal property from an out-of-state retailer, shall file
19 with the Department, upon a form to be prescribed and supplied
20 by the Department, a return for each such item of tangible
21 personal property purchased, except that if, in the same
22 transaction, (i) a purchaser of motor vehicles, aircraft,
23 watercraft, or trailers who is a retailer of motor vehicles,
24 aircraft, watercraft, or trailers purchases more than one motor
25 vehicle, aircraft, watercraft, or trailer for the purpose of
26 resale or (ii) a purchaser of motor vehicles, aircraft,

1 watercraft, or trailers purchases more than one motor vehicle,
2 aircraft, watercraft, or trailer for use as qualifying rolling
3 stock as provided in Section 3-55 of this Act, then the
4 purchaser may report the purchase of all motor vehicles,
5 aircraft, watercraft, or trailers involved in that transaction
6 to the Department on a single return prescribed by the
7 Department. Such return in the case of motor vehicles and
8 aircraft must show the name and address of the seller, the
9 name, address of purchaser, the amount of the selling price
10 including the amount allowed by the retailer for traded in
11 property, if any; the amount allowed by the retailer for the
12 traded-in tangible personal property, if any, to the extent to
13 which Section 2 of this Act allows an exemption for the value
14 of traded-in property; the balance payable after deducting such
15 trade-in allowance from the total selling price; the amount of
16 tax due from the purchaser with respect to such transaction;
17 the amount of tax collected from the purchaser by the retailer
18 on such transaction (or satisfactory evidence that such tax is
19 not due in that particular instance if that is claimed to be
20 the fact); the place and date of the sale, a sufficient
21 identification of the property sold, and such other information
22 as the Department may reasonably require.

23 Such return shall be filed not later than 30 days after
24 such motor vehicle or aircraft is brought into this State for
25 use.

26 For purposes of this Section, "watercraft" means a Class 2,

1 Class 3, or Class 4 watercraft as defined in Section 3-2 of the
2 Boat Registration and Safety Act, a personal watercraft, or any
3 boat equipped with an inboard motor.

4 The return and tax remittance or proof of exemption from
5 the tax that is imposed by this Act may be transmitted to the
6 Department by way of the State agency with which, or State
7 officer with whom, the tangible personal property must be
8 titled or registered (if titling or registration is required)
9 if the Department and such agency or State officer determine
10 that this procedure will expedite the processing of
11 applications for title or registration.

12 With each such return, the purchaser shall remit the proper
13 amount of tax due (or shall submit satisfactory evidence that
14 the sale is not taxable if that is the case), to the Department
15 or its agents, whereupon the Department shall issue, in the
16 purchaser's name, a tax receipt (or a certificate of exemption
17 if the Department is satisfied that the particular sale is tax
18 exempt) which such purchaser may submit to the agency with
19 which, or State officer with whom, he must title or register
20 the tangible personal property that is involved (if titling or
21 registration is required) in support of such purchaser's
22 application for an Illinois certificate or other evidence of
23 title or registration to such tangible personal property.

24 When a purchaser or transferee pays a tax imposed by this
25 Act directly to the Department, the Department (upon request
26 therefor from such purchaser or transferee) shall issue an

1 appropriate receipt to such purchaser or transferee showing
2 that he has paid such tax to the Department. Such receipt shall
3 be sufficient to relieve the purchaser or transferee from
4 further liability for the tax to which such receipt may refer.

5 A user who is liable to pay use tax directly to the
6 Department only occasionally and not on a frequently recurring
7 basis, and who is not required to file returns with the
8 Department as a retailer or transferee under Section 9 of this
9 Act, or under the "Retailers' Occupation Tax Act", or as a
10 registrant with the Department under the "Service Occupation
11 Tax Act" or the "Service Use Tax Act", need not register with
12 the Department. However, if such a user has a frequently
13 recurring direct use tax liability to pay to the Department,
14 such user shall be required to register with the Department on
15 forms prescribed by the Department and to obtain and display a
16 certificate of registration from the Department. In that event,
17 all of the provisions of Section 9 of this Act concerning the
18 filing of regular monthly, quarterly or annual tax returns and
19 all of the provisions of Section 2a of the "Retailers'
20 Occupation Tax Act" concerning the requirements for
21 registrants to post bond or other security with the Department,
22 as the provisions of such sections now exist or may hereafter
23 be amended, shall apply to such users to the same extent as if
24 such provisions were included herein.

25 (Source: P.A. 91-541, eff. 8-13-99; 91-901, eff. 1-1-01.)

1 (35 ILCS 105/12) (from Ch. 120, par. 439.12)

2 Sec. 12. Applicability of Retailers' Occupation Tax Act and
3 Uniform Penalty and Interest Act. All of the provisions of
4 Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2-54,
5 2a, 2b, 2c, 3 through 3.8, 4 (except that the time limitation
6 provisions shall run from the date when the tax is due rather
7 than from the date when gross receipts are received), 5 (except
8 that the time limitation provisions on the issuance of notices
9 of tax liability shall run from the date when the tax is due
10 rather than from the date when gross receipts are received and
11 except that in the case of a failure to file a return required
12 by this Act, no notice of tax liability shall be issued on and
13 after each July 1 and January 1 covering tax due with that
14 return during any month or period more than 6 years before that
15 July 1 or January 1, respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g,
16 5h, 5j, 5k, 5l, 7, 8, 9, 10, 11 and 12 of the Retailers'
17 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
18 Interest Act, which are not inconsistent with this Act, shall
19 apply, as far as practicable, to the subject matter of this Act
20 to the same extent as if such provisions were included herein.
21 (Source: P.A. 94-781, eff. 5-19-06; 94-1021, eff. 7-12-06;
22 revised 8-03-06.)

23 (35 ILCS 105/23 new)

24 Sec. 23. Purchaser causes of action. The provisions of this
25 Section are effective beginning on July 1, 2008. Persons who

1 make purchases from a retailer who has collected tax under this
2 Act and have paid such tax in error to the retailer may seek a
3 return of such tax from that retailer. A cause of action by a
4 purchaser against a retailer for over-collected tax does not
5 accrue until the purchaser has provided written notice to the
6 retailer and the retailer has sixty days to respond. The notice
7 to the retailer must contain the information necessary to
8 determine the validity of the request. In connection with a
9 purchaser's request from a seller of over-collected sales or
10 use taxes, a seller shall be presumed to have a reasonable
11 business practice, if in the collection of such sales or use
12 taxes, the seller: i) uses either a provider or a system,
13 including a proprietary system, that is certified by the state;
14 and ii) has remitted to the state all taxes collected less any
15 deductions, credits, or collection allowances.

16 Section 20. The Service Use Tax Act is amended by changing
17 Sections 2, 3, 3-5, 3-5.5, 3-10, 3-25, 3-40, 5, 6, 7, 7a, 8, 9,
18 10, 11, 12, 14, and 17 and by adding Section 3-10.3 as follows:

19 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

20 Sec. 2. "Use" means the exercise by any person of any right
21 or power over tangible personal property incident to the
22 ownership of that property, but does not include the sale or
23 use for demonstration by him of that property in any form as
24 tangible personal property in the regular course of business.

1 "Use" does not mean the interim use of tangible personal
2 property nor the physical incorporation of tangible personal
3 property, as an ingredient or constituent, into other tangible
4 personal property, (a) which is sold in the regular course of
5 business or (b) which the person incorporating such ingredient
6 or constituent therein has undertaken at the time of such
7 purchase to cause to be transported in interstate commerce to
8 destinations outside the State of Illinois.

9 "Purchased from a serviceman" means the acquisition of the
10 ownership of, or title to, tangible personal property through a
11 sale of service.

12 "Purchaser" means any person who, through a sale of
13 service, acquires the ownership of, or title to, any tangible
14 personal property.

15 "Cost price" means the consideration paid by the serviceman
16 for a purchase valued in money, whether paid in money or
17 otherwise, including cash, credits and services, and shall be
18 determined without any deduction on account of the supplier's
19 cost of the property sold or on account of any other expense
20 incurred by the supplier. When a serviceman contracts out part
21 or all of the services required in his sale of service, it
22 shall be presumed that the cost price to the serviceman of the
23 property transferred to him or her by his or her subcontractor
24 is equal to 50% of the subcontractor's charges to the
25 serviceman in the absence of proof of the consideration paid by
26 the subcontractor for the purchase of such property.

1 "Selling price" means the consideration for a sale valued
2 in money whether received in money or otherwise, including
3 cash, credits and service, and shall be determined without any
4 deduction on account of the serviceman's cost of the property
5 sold, the cost of materials used, labor or service cost or any
6 other expense whatsoever, but does not include interest or
7 finance charges which appear as separate items on the bill of
8 sale or sales contract nor charges that are added to prices by
9 sellers on account of the seller's duty to collect, from the
10 purchaser, the tax that is imposed by this Act.

11 "Department" means the Department of Revenue.

12 "Person" means any natural individual, firm, partnership,
13 association, joint stock company, joint venture, public or
14 private corporation, limited liability company, and any
15 receiver, executor, trustee, guardian or other representative
16 appointed by order of any court.

17 "Sale of service" means any transaction except:

18 (1) a retail sale of tangible personal property taxable
19 under the Retailers' Occupation Tax Act or under the Use
20 Tax Act.

21 (2) a sale of tangible personal property for the
22 purpose of resale made in compliance with Section 2c of the
23 Retailers' Occupation Tax Act.

24 (3) except as hereinafter provided, a sale or transfer
25 of tangible personal property as an incident to the
26 rendering of service for or by any governmental body, or

1 for or by any corporation, society, association,
2 foundation or institution organized and operated
3 exclusively for charitable, religious or educational
4 purposes or any not-for-profit corporation, society,
5 association, foundation, institution or organization which
6 has no compensated officers or employees and which is
7 organized and operated primarily for the recreation of
8 persons 55 years of age or older. A limited liability
9 company may qualify for the exemption under this paragraph
10 only if the limited liability company is organized and
11 operated exclusively for educational purposes.

12 (4) a sale or transfer of tangible personal property as
13 an incident to the rendering of service for interstate
14 carriers for hire for use as rolling stock moving in
15 interstate commerce or by lessors under a lease of one year
16 or longer, executed or in effect at the time of purchase of
17 personal property, to interstate carriers for hire for use
18 as rolling stock moving in interstate commerce so long as
19 so used by such interstate carriers for hire, and equipment
20 operated by a telecommunications provider, licensed as a
21 common carrier by the Federal Communications Commission,
22 which is permanently installed in or affixed to aircraft
23 moving in interstate commerce.

24 (4a) a sale or transfer of tangible personal property
25 as an incident to the rendering of service for owners,
26 lessors, or shippers of tangible personal property which is

1 utilized by interstate carriers for hire for use as rolling
2 stock moving in interstate commerce so long as so used by
3 interstate carriers for hire, and equipment operated by a
4 telecommunications provider, licensed as a common carrier
5 by the Federal Communications Commission, which is
6 permanently installed in or affixed to aircraft moving in
7 interstate commerce.

8 (4a-5) on and after July 1, 2003 and through June 30,
9 2004, a sale or transfer of a motor vehicle of the second
10 division with a gross vehicle weight in excess of 8,000
11 pounds as an incident to the rendering of service if that
12 motor vehicle is subject to the commercial distribution fee
13 imposed under Section 3-815.1 of the Illinois Vehicle Code.
14 Beginning on July 1, 2004 and through June 30, 2005, the
15 use in this State of motor vehicles of the second division:
16 (i) with a gross vehicle weight rating in excess of 8,000
17 pounds; (ii) that are subject to the commercial
18 distribution fee imposed under Section 3-815.1 of the
19 Illinois Vehicle Code; and (iii) that are primarily used
20 for commercial purposes. Through June 30, 2005, this
21 exemption applies to repair and replacement parts added
22 after the initial purchase of such a motor vehicle if that
23 motor vehicle is used in a manner that would qualify for
24 the rolling stock exemption otherwise provided for in this
25 Act. For purposes of this paragraph, "used for commercial
26 purposes" means the transportation of persons or property

1 in furtherance of any commercial or industrial enterprise
2 whether for-hire or not.

3 (5) a sale or transfer of machinery and equipment used
4 primarily in the process of the manufacturing or
5 assembling, either in an existing, an expanded or a new
6 manufacturing facility, of tangible personal property for
7 wholesale or retail sale or lease, whether such sale or
8 lease is made directly by the manufacturer or by some other
9 person, whether the materials used in the process are owned
10 by the manufacturer or some other person, or whether such
11 sale or lease is made apart from or as an incident to the
12 seller's engaging in a service occupation and the
13 applicable tax is a Service Use Tax or Service Occupation
14 Tax, rather than Use Tax or Retailers' Occupation Tax.

15 (5a) the repairing, reconditioning or remodeling, for
16 a common carrier by rail, of tangible personal property
17 which belongs to such carrier for hire, and as to which
18 such carrier receives the physical possession of the
19 repaired, reconditioned or remodeled item of tangible
20 personal property in Illinois, and which such carrier
21 transports, or shares with another common carrier in the
22 transportation of such property, out of Illinois on a
23 standard uniform bill of lading showing the person who
24 repaired, reconditioned or remodeled the property to a
25 destination outside Illinois, for use outside Illinois.

26 (5b) a sale or transfer of tangible personal property

1 which is produced by the seller thereof on special order in
2 such a way as to have made the applicable tax the Service
3 Occupation Tax or the Service Use Tax, rather than the
4 Retailers' Occupation Tax or the Use Tax, for an interstate
5 carrier by rail which receives the physical possession of
6 such property in Illinois, and which transports such
7 property, or shares with another common carrier in the
8 transportation of such property, out of Illinois on a
9 standard uniform bill of lading showing the seller of the
10 property as the shipper or consignor of such property to a
11 destination outside Illinois, for use outside Illinois.

12 (6) until July 1, 2003, a sale or transfer of
13 distillation machinery and equipment, sold as a unit or kit
14 and assembled or installed by the retailer, which machinery
15 and equipment is certified by the user to be used only for
16 the production of ethyl alcohol that will be used for
17 consumption as motor fuel or as a component of motor fuel
18 for the personal use of such user and not subject to sale
19 or resale.

20 (7) at the election of any serviceman not required to
21 be otherwise registered as a retailer under Section 2a of
22 the Retailers' Occupation Tax Act, made for each fiscal
23 year sales of service in which the aggregate annual cost
24 price of tangible personal property transferred as an
25 incident to the sales of service is less than 35%, or 75%
26 in the case of servicemen transferring prescription drugs

1 or servicemen engaged in graphic arts production, of the
2 aggregate annual total gross receipts from all sales of
3 service. The purchase of such tangible personal property by
4 the serviceman shall be subject to tax under the Retailers'
5 Occupation Tax Act and the Use Tax Act. However, if a
6 primary serviceman who has made the election described in
7 this paragraph subcontracts service work to a secondary
8 serviceman who has also made the election described in this
9 paragraph, the primary serviceman does not incur a Use Tax
10 liability if the secondary serviceman (i) has paid or will
11 pay Use Tax on his or her cost price of any tangible
12 personal property transferred to the primary serviceman
13 and (ii) certifies that fact in writing to the primary
14 serviceman.

15 Tangible personal property transferred incident to the
16 completion of a maintenance agreement is exempt from the tax
17 imposed pursuant to this Act.

18 Beginning on January 1, 2008, prewritten computer software
19 that is modified or enhanced, when that modification or
20 enhancement is designed and developed to the specifications of
21 a specific purchaser, is exempt from the tax imposed under this
22 Act and the transfer of that modified or enhanced prewritten
23 computer software is subject to tax under the Retailers'
24 Occupation Tax Act and the Use Tax Act.

25 Beginning on January 1, 2008, prewritten computer
26 software, whether or not bundled for one non-itemized price

1 with charges for training, telephone assistance, installation,
2 consulting, or other services is exempt from the tax imposed
3 under this Act but is subject to tax under the Retailers'
4 Occupation Tax Act and the Use Tax Act.

5 Exemption (5) also includes machinery and equipment used in
6 the general maintenance or repair of such exempt machinery and
7 equipment or for in-house manufacture of exempt machinery and
8 equipment. For the purposes of exemption (5), each of these
9 terms shall have the following meanings: (1) "manufacturing
10 process" shall mean the production of any article of tangible
11 personal property, whether such article is a finished product
12 or an article for use in the process of manufacturing or
13 assembling a different article of tangible personal property,
14 by procedures commonly regarded as manufacturing, processing,
15 fabricating, or refining which changes some existing material
16 or materials into a material with a different form, use or
17 name. In relation to a recognized integrated business composed
18 of a series of operations which collectively constitute
19 manufacturing, or individually constitute manufacturing
20 operations, the manufacturing process shall be deemed to
21 commence with the first operation or stage of production in the
22 series, and shall not be deemed to end until the completion of
23 the final product in the last operation or stage of production
24 in the series; and further, for purposes of exemption (5),
25 photoprocessing is deemed to be a manufacturing process of
26 tangible personal property for wholesale or retail sale; (2)

1 "assembling process" shall mean the production of any article
2 of tangible personal property, whether such article is a
3 finished product or an article for use in the process of
4 manufacturing or assembling a different article of tangible
5 personal property, by the combination of existing materials in
6 a manner commonly regarded as assembling which results in a
7 material of a different form, use or name; (3) "machinery"
8 shall mean major mechanical machines or major components of
9 such machines contributing to a manufacturing or assembling
10 process; and (4) "equipment" shall include any independent
11 device or tool separate from any machinery but essential to an
12 integrated manufacturing or assembly process; including
13 computers used primarily in a manufacturer's computer assisted
14 design, computer assisted manufacturing (CAD/CAM) system; or
15 any subunit or assembly comprising a component of any machinery
16 or auxiliary, adjunct or attachment parts of machinery, such as
17 tools, dies, jigs, fixtures, patterns and molds; or any parts
18 which require periodic replacement in the course of normal
19 operation; but shall not include hand tools. Equipment includes
20 chemicals or chemicals acting as catalysts but only if the
21 chemicals or chemicals acting as catalysts effect a direct and
22 immediate change upon a product being manufactured or assembled
23 for wholesale or retail sale or lease. The purchaser of such
24 machinery and equipment who has an active resale registration
25 number shall furnish such number to the seller at the time of
26 purchase. The user of such machinery and equipment and tools

1 without an active resale registration number shall prepare a
2 certificate of exemption for each transaction stating facts
3 establishing the exemption for that transaction, which
4 certificate shall be available to the Department for inspection
5 or audit. The Department shall prescribe the form of the
6 certificate.

7 Any informal rulings, opinions or letters issued by the
8 Department in response to an inquiry or request for any opinion
9 from any person regarding the coverage and applicability of
10 exemption (5) to specific devices shall be published,
11 maintained as a public record, and made available for public
12 inspection and copying. If the informal ruling, opinion or
13 letter contains trade secrets or other confidential
14 information, where possible the Department shall delete such
15 information prior to publication. Whenever such informal
16 rulings, opinions, or letters contain any policy of general
17 applicability, the Department shall formulate and adopt such
18 policy as a rule in accordance with the provisions of the
19 Illinois Administrative Procedure Act.

20 On and after July 1, 1987, no entity otherwise eligible
21 under exemption (3) of this Section shall make tax free
22 purchases unless it has an active exemption identification
23 number issued by the Department.

24 The purchase, employment and transfer of such tangible
25 personal property as newsprint and ink for the primary purpose
26 of conveying news (with or without other information) is not a

1 purchase, use or sale of service or of tangible personal
2 property within the meaning of this Act.

3 Beginning July 1, 2008, "lease or rental" means the
4 transfer of possession or control of tangible personal property
5 for a fixed or indeterminate term for consideration. A lease or
6 rental may include future options to purchase or extend.

7 (A) Lease or rental does not include:

8 (1) A transfer of possession or control of property
9 under a security agreement or deferred payment plan
10 that requires the transfer of title upon completion of
11 the required payments;

12 (2) A transfer or possession or control of property
13 under an agreement that requires the transfer of title
14 upon the completion of required payments and payment of
15 an option price does not exceed the greater of \$100 or
16 1% of the total required payments; or

17 (3) Providing tangible personal property along
18 with an operator for a fixed or indeterminate period of
19 time. A condition for this exclusion is that the
20 operator is necessary for the equipment to perform as
21 designed. For the purpose of this subsection, an
22 operator must do more than maintain, inspect, or set-up
23 the tangible personal property.

24 (B) Lease or rental does not include agreements
25 covering motor vehicles and trailers where the amount of
26 consideration may be increased or decreased by reference to

1 the amount realized upon sale or disposition of the
2 property as defined in 26 U.S.C. 7701(h) (1).

3 (C) This definition shall be used for purposes of this
4 Act regardless if a transaction is characterized as a lease
5 or rental under generally accepted accounting principles,
6 the Internal Revenue Code, the Uniform Commercial Code, or
7 other provisions of federal, State or local law.

8 "Serviceman" means any person who is engaged in the
9 occupation of making sales of service.

10 "Sale at retail" means "sale at retail" as defined in the
11 Retailers' Occupation Tax Act.

12 "Supplier" means any person who makes sales of tangible
13 personal property to servicemen for the purpose of resale as an
14 incident to a sale of service.

15 "Serviceman maintaining a place of business in this State",
16 or any like term, means and includes any serviceman:

17 1. having or maintaining within this State, directly or
18 by a subsidiary, an office, distribution house, sales
19 house, warehouse or other place of business, or any agent
20 or other representative operating within this State under
21 the authority of the serviceman or its subsidiary,
22 irrespective of whether such place of business or agent or
23 other representative is located here permanently or
24 temporarily, or whether such serviceman or subsidiary is
25 licensed to do business in this State;

26 2. soliciting orders for tangible personal property by

1 means of a telecommunication or television shopping system
2 (which utilizes toll free numbers) which is intended by the
3 retailer to be broadcast by cable television or other means
4 of broadcasting, to consumers located in this State;

5 3. pursuant to a contract with a broadcaster or
6 publisher located in this State, soliciting orders for
7 tangible personal property by means of advertising which is
8 disseminated primarily to consumers located in this State
9 and only secondarily to bordering jurisdictions;

10 4. soliciting orders for tangible personal property by
11 mail if the solicitations are substantial and recurring and
12 if the retailer benefits from any banking, financing, debt
13 collection, telecommunication, or marketing activities
14 occurring in this State or benefits from the location in
15 this State of authorized installation, servicing, or
16 repair facilities;

17 5. being owned or controlled by the same interests
18 which own or control any retailer engaging in business in
19 the same or similar line of business in this State;

20 6. having a franchisee or licensee operating under its
21 trade name if the franchisee or licensee is required to
22 collect the tax under this Section;

23 7. pursuant to a contract with a cable television
24 operator located in this State, soliciting orders for
25 tangible personal property by means of advertising which is
26 transmitted or distributed over a cable television system

1 in this State; or

2 8. engaging in activities in Illinois, which
3 activities in the state in which the supply business
4 engaging in such activities is located would constitute
5 maintaining a place of business in that state.

6 Beginning on July 1, 2008, "Streamlined Sales and Use Tax
7 Agreement" means the agreement adopted the twelfth day of
8 November, 2002, as now or hereafter amended, by states that
9 enacted authority to engage in multistate discussions as
10 described in Section 5 of the Simplified Sales and Use Tax
11 Administration Act.

12 Beginning July 1, 2008, "agent" means, for purposes of the
13 Streamlined Sales and Use Tax Agreement, a person appointed by
14 a seller to represent that seller before the member states of
15 the Streamlined Sales and Use Tax Agreement.

16 Beginning July 1, 2008, "Certified Automated System" or
17 "CAS" means software certified under the Streamlined Sales and
18 Use Tax Agreement to calculate the tax imposed by each
19 jurisdiction on a transaction, determine the amount of tax to
20 remit to the appropriate state, and maintain a record of the
21 transaction.

22 Beginning July 1, 2008, "Certified Service Provider" or
23 "CSP" means an agent certified under the Streamlined Sales and
24 Use Tax Agreement to perform all the seller's sales and use tax
25 functions, other than the seller's obligation to remit tax on
26 its own purchases.

1 Beginning July 1, 2008, "Model 1 Seller" means a seller
2 that has selected a CSP as its agent to perform all the
3 seller's sales and use tax functions, other than the seller's
4 obligation to remit tax on its own purchases.

5 Beginning July 1, 2008, "Model 2 Seller" means a seller
6 that has selected a CAS to perform part of its sales and use
7 tax functions, but retains responsibility for remitting the
8 tax.

9 Beginning July 1, 2008, "Model 3 Seller" means a seller
10 that has sales in at least 5 member states, has total annual
11 sales revenue of at least \$500,000,000, has a proprietary
12 system that calculates the amount of tax due each jurisdiction,
13 and has entered into a performance agreement with the
14 Streamlined Sales and Use Tax Agreement member states that
15 establishes a tax performance standard for the seller. As used
16 in this definition, a seller includes an affiliated group of
17 sellers using the same proprietary system.

18 Beginning July 1, 2008, "food and food ingredients" means
19 substances, whether in liquid, concentrated, solid, frozen,
20 dried, or dehydrated form, that are sold for ingestion or
21 chewing by humans and are consumed for their taste or
22 nutritional value. "Food and food ingredients" does not include
23 "alcoholic beverages," "tobacco," or "soft drinks".

24 Beginning July 1, 2008, "prepared food" means:

25 (A) Food sold in a heated state or heated by the
26 seller;

1 (B) Two or more food ingredients mixed or combined by
2 the seller for sale as a single item (except for food that
3 is only cut, repackaged, or pasteurized by the seller, and
4 eggs, fish, meat, poultry, and foods containing these raw
5 animal foods requiring cooking by the consumer as
6 recommended by the Food and Drug Administration in chapter
7 3, part 401.11 of its Food Code so as to prevent food borne
8 illnesses); or

9 (C) Food sold with eating utensils provided by the
10 seller, including plates, knives, forks, spoons, glasses,
11 cups, napkins, or straws. A plate does not include a
12 container or packaging used to transport the food.

13 Subparts (A) and (B) of the definition of "prepared food"
14 do not apply to food sold in an unheated state by weight or
15 volume as a single item or bakery items, including bread,
16 rolls, buns, biscuits, bagels, croissants, pastries, donuts,
17 Danish, cakes, tortes, pies, tarts, muffins, bars, cookies,
18 tortillas.

19 Beginning January 1, 2008, "soft drinks" mean
20 non-alcoholic beverages that contain natural or artificial
21 sweeteners. "Soft drinks" do not include beverages that contain
22 milk or milk products, soy, rice or similar milk substitutes,
23 or greater than 50% of vegetable or fruit juice by volume.

24 Beginning July 1, 2008, "tangible personal property" means
25 personal property that can be seen, weighed, measured, felt, or
26 touched, or that is in any other manner perceptible to the

1 senses. "Tangible personal property" includes prewritten
2 computer software.

3 Beginning January 1, 2008 and through June 30, 2008, the
4 terms "medicine" and "drug" do not include items that qualify
5 as grooming and hygiene products, unless those products are
6 available by prescription only.

7 Beginning July 1, 2008, "drug" means a compound, substance
8 or preparation for human use, including insulin, and any
9 component of a compound, substance or preparation for human
10 use, other than "food and food ingredients," "dietary
11 supplements," "grooming and hygiene products," or "alcoholic
12 beverages":

13 (A) recognized in the official United States
14 Pharmacopoeia, official Homeopathic Pharmacopoeia of the
15 United States, or official National Formulary, and
16 supplement to any of them; or

17 (B) intended for use in the diagnosis, cure,
18 mitigation, treatment, or prevention of disease; or

19 (C) intended to affect the structure or any function of
20 the body.

21 Beginning July 1, 2008, "prescription" means an order,
22 formula or recipe issued in any form of oral, written,
23 electronic, or other means of transmission by physician
24 licensed to practice medicine in all its branched under the
25 Medical Practice Act of 1987, a dentist licensed under the
26 Illinois Dental Practice Act, a podiatrist licensed under the

1 Podiatric Medical Practice Act of 1987, a physician assistant
2 licensed under the Physician Assistant Practice Act of 1987, or
3 an advanced practice nurse with a written collaborative
4 agreement under Section 15-15 and prescriptive authority in
5 accordance with Section 15-20 of the Nursing and Advanced
6 Practice Nursing Act.

7 Beginning July 1, 2008, "over-the-counter-drug" means a
8 drug for human use that contains a label that identifies the
9 product as a drug as required by 21 C.F.R. Section 201.66. The
10 "over-the-counter-drug" label includes:

11 (A) a "Drug Facts" panel; or

12 (B) a statement of the "active ingredient(s)" with a
13 list of those ingredients contained in the compound,
14 substance or preparation.

15 Beginning January 1, 2008, "grooming and hygiene products"
16 are soaps and cleaning solutions, shampoo, toothpaste,
17 mouthwash, antiperspirants, and sun tan lotions and screens,
18 regardless of whether the items meet the definition of
19 "over-the-counter-drugs".

20 Beginning July 1, 2008, "prosthetic device" means a
21 replacement, corrective or supportive device including repair
22 and replacement parts for same worn on or in the body to:

23 (A) artificially replace a missing portion of the body;

24 (B) prevent or correct physical deformity or
25 malfunction; or

26 (C) support a weak or deformed portion of the body.

1 Beginning July 1, 2008, "dietary supplement" means any
2 product, other than "tobacco," intended to supplement the diet
3 that:

4 (A) contains one or more of the following dietary
5 ingredients:

6 (1) a vitamin;

7 (2) a mineral;

8 (3) an herb or other botanical;

9 (4) an amino acid;

10 (5) a dietary substance for use by humans to
11 supplement the diet by increasing the total dietary
12 intake; or

13 (6) a concentrate, metabolite, constituent,
14 extract, or combination of any ingredient described in
15 items (1) through (5) of this subparagraph (A); and

16 (B) is intended for ingestion in tablet, capsule,
17 powder, softgel, gelcap, or liquid form, or if not intended
18 for ingestion in such a form, is not represented as
19 conventional food and is not represented for use as a sole
20 item of a meal or of the diet; and

21 (C) is required to be labeled as a dietary supplement,
22 identifiable by the "Supplemental Facts" box found on the
23 label and as required pursuant to 21 C.F.R Section 101.36.

24 Beginning July 1, 2008, "alcoholic beverages" means
25 beverages that are suitable for human consumption and contain
26 one-half of one percent or more of alcohol by volume.

1 Beginning July 1, 2008, "tobacco" means cigarettes,
2 cigars, chewing or pipe tobacco, or any other item that
3 contains tobacco.

4 Beginning July 1, 2008, "direct mail" means printed
5 material delivered or distributed by United States mail or
6 other delivery service to a mass audience or to addressees on a
7 mailing list provided by the purchaser or at the direction of
8 the purchaser when the cost of the items are not billed
9 directly to the recipients. "Direct mail" includes tangible
10 personal property supplied directly or indirectly by the
11 purchaser to the direct mail seller for inclusion in the
12 package containing the printed material. "Direct mail" does not
13 include multiple items of printed material delivered to a
14 single address.

15 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
16 eff. 6-20-03; 93-1033, eff. 9-3-04.)

17 (35 ILCS 110/3) (from Ch. 120, par. 439.33)

18 Sec. 3. Tax imposed.

19 (a) A tax is imposed upon the privilege of using in this
20 State real or tangible personal property acquired as an
21 incident to the purchase of a service from a serviceman,
22 including computer software, and including photographs,
23 negatives, and positives that are the product of
24 photoprocessing, but not including products of photoprocessing
25 produced for use in motion pictures for public commercial

1 exhibition. Beginning January 1, 2001, prepaid telephone
2 calling arrangements shall be considered tangible personal
3 property subject to the tax imposed under this Act regardless
4 of the form in which those arrangements may be embodied,
5 transmitted, or fixed by any method now known or hereafter
6 developed.

7 Beginning on January 1, 2008, computer software is no
8 longer taxable under this Act to the extent that and for as
9 long as it is taxable under the Use Tax Act and the Retailers'
10 Occupation Tax Act as provided in the provisions concerning
11 "sale of service" in Section 2 of this Act.

12 (b) For sales occurring on and after July 1, 2008, and
13 notwithstanding any other provision of this Act, the location
14 of where a sale takes place for the purposes of this Act shall
15 be determined under the rules provided in subsection (b) of
16 Section 3 of the Service Occupation Tax Act.

17 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

18 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

19 Sec. 3-5. Exemptions. Use of the following tangible
20 personal property is exempt from the tax imposed by this Act:

21 (1) Personal property purchased from a corporation,
22 society, association, foundation, institution, or
23 organization, other than a limited liability company, that is
24 organized and operated as a not-for-profit service enterprise
25 for the benefit of persons 65 years of age or older if the

1 personal property was not purchased by the enterprise for the
2 purpose of resale by the enterprise.

3 (2) Personal property purchased by a non-profit Illinois
4 county fair association for use in conducting, operating, or
5 promoting the county fair.

6 (3) Personal property purchased by a not-for-profit arts or
7 cultural organization that establishes, by proof required by
8 the Department by rule, that it has received an exemption under
9 Section 501(c)(3) of the Internal Revenue Code and that is
10 organized and operated primarily for the presentation or
11 support of arts or cultural programming, activities, or
12 services. These organizations include, but are not limited to,
13 music and dramatic arts organizations such as symphony
14 orchestras and theatrical groups, arts and cultural service
15 organizations, local arts councils, visual arts organizations,
16 and media arts organizations. On and after the effective date
17 of this amendatory Act of the 92nd General Assembly, however,
18 an entity otherwise eligible for this exemption shall not make
19 tax-free purchases unless it has an active identification
20 number issued by the Department.

21 (4) Legal tender, currency, medallions, or gold or silver
22 coinage issued by the State of Illinois, the government of the
23 United States of America, or the government of any foreign
24 country, and bullion.

25 (5) Until July 1, 2003 and beginning again on September 1,
26 2004, graphic arts machinery and equipment, including repair

1 and replacement parts, both new and used, and including that
2 manufactured on special order or purchased for lease, certified
3 by the purchaser to be used primarily for graphic arts
4 production. Equipment includes chemicals or chemicals acting
5 as catalysts but only if the chemicals or chemicals acting as
6 catalysts effect a direct and immediate change upon a graphic
7 arts product.

8 (6) Personal property purchased from a teacher-sponsored
9 student organization affiliated with an elementary or
10 secondary school located in Illinois.

11 (7) Farm machinery and equipment, both new and used,
12 including that manufactured on special order, certified by the
13 purchaser to be used primarily for production agriculture or
14 State or federal agricultural programs, including individual
15 replacement parts for the machinery and equipment, including
16 machinery and equipment purchased for lease, and including
17 implements of husbandry defined in Section 1-130 of the
18 Illinois Vehicle Code, farm machinery and agricultural
19 chemical and fertilizer spreaders, and nurse wagons required to
20 be registered under Section 3-809 of the Illinois Vehicle Code,
21 but excluding other motor vehicles required to be registered
22 under the Illinois Vehicle Code. Horticultural polyhouses or
23 hoop houses used for propagating, growing, or overwintering
24 plants shall be considered farm machinery and equipment under
25 this item (7). Agricultural chemical tender tanks and dry boxes
26 shall include units sold separately from a motor vehicle

1 required to be licensed and units sold mounted on a motor
2 vehicle required to be licensed if the selling price of the
3 tender is separately stated.

4 Farm machinery and equipment shall include precision
5 farming equipment that is installed or purchased to be
6 installed on farm machinery and equipment including, but not
7 limited to, tractors, harvesters, sprayers, planters, seeders,
8 or spreaders. Precision farming equipment includes, but is not
9 limited to, soil testing sensors, computers, monitors,
10 software, global positioning and mapping systems, and other
11 such equipment.

12 Farm machinery and equipment also includes computers,
13 sensors, software, and related equipment used primarily in the
14 computer-assisted operation of production agriculture
15 facilities, equipment, and activities such as, but not limited
16 to, the collection, monitoring, and correlation of animal and
17 crop data for the purpose of formulating animal diets and
18 agricultural chemicals. This item (7) is exempt from the
19 provisions of Section 3-75.

20 (8) Fuel and petroleum products sold to or used by an air
21 common carrier, certified by the carrier to be used for
22 consumption, shipment, or storage in the conduct of its
23 business as an air common carrier, for a flight destined for or
24 returning from a location or locations outside the United
25 States without regard to previous or subsequent domestic
26 stopovers.

1 (9) Proceeds of mandatory service charges separately
2 stated on customers' bills for the purchase and consumption of
3 food and beverages acquired as an incident to the purchase of a
4 service from a serviceman, to the extent that the proceeds of
5 the service charge are in fact turned over as tips or as a
6 substitute for tips to the employees who participate directly
7 in preparing, serving, hosting or cleaning up the food or
8 beverage function with respect to which the service charge is
9 imposed.

10 (10) Until July 1, 2003, oil field exploration, drilling,
11 and production equipment, including (i) rigs and parts of rigs,
12 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
13 tubular goods, including casing and drill strings, (iii) pumps
14 and pump-jack units, (iv) storage tanks and flow lines, (v) any
15 individual replacement part for oil field exploration,
16 drilling, and production equipment, and (vi) machinery and
17 equipment purchased for lease; but excluding motor vehicles
18 required to be registered under the Illinois Vehicle Code.

19 (11) Proceeds from the sale of photoprocessing machinery
20 and equipment, including repair and replacement parts, both new
21 and used, including that manufactured on special order,
22 certified by the purchaser to be used primarily for
23 photoprocessing, and including photoprocessing machinery and
24 equipment purchased for lease.

25 (12) Until July 1, 2003, coal exploration, mining,
26 offhighway hauling, processing, maintenance, and reclamation

1 equipment, including replacement parts and equipment, and
2 including equipment purchased for lease, but excluding motor
3 vehicles required to be registered under the Illinois Vehicle
4 Code.

5 (13) Semen used for artificial insemination of livestock
6 for direct agricultural production.

7 (14) Horses, or interests in horses, registered with and
8 meeting the requirements of any of the Arabian Horse Club
9 Registry of America, Appaloosa Horse Club, American Quarter
10 Horse Association, United States Trotting Association, or
11 Jockey Club, as appropriate, used for purposes of breeding or
12 racing for prizes.

13 (15) Computers and communications equipment utilized for
14 any hospital purpose and equipment used in the diagnosis,
15 analysis, or treatment of hospital patients purchased by a
16 lessor who leases the equipment, under a lease of one year or
17 longer executed or in effect at the time the lessor would
18 otherwise be subject to the tax imposed by this Act, to a
19 hospital that has been issued an active tax exemption
20 identification number by the Department under Section 1g of the
21 Retailers' Occupation Tax Act. If the equipment is leased in a
22 manner that does not qualify for this exemption or is used in
23 any other non-exempt manner, the lessor shall be liable for the
24 tax imposed under this Act or the Use Tax Act, as the case may
25 be, based on the fair market value of the property at the time
26 the non-qualifying use occurs. No lessor shall collect or

1 attempt to collect an amount (however designated) that purports
2 to reimburse that lessor for the tax imposed by this Act or the
3 Use Tax Act, as the case may be, if the tax has not been paid by
4 the lessor. If a lessor improperly collects any such amount
5 from the lessee, the lessee shall have a legal right to claim a
6 refund of that amount from the lessor. If, however, that amount
7 is not refunded to the lessee for any reason, the lessor is
8 liable to pay that amount to the Department.

9 (16) Personal property purchased by a lessor who leases the
10 property, under a lease of one year or longer executed or in
11 effect at the time the lessor would otherwise be subject to the
12 tax imposed by this Act, to a governmental body that has been
13 issued an active tax exemption identification number by the
14 Department under Section 1g of the Retailers' Occupation Tax
15 Act. If the property is leased in a manner that does not
16 qualify for this exemption or is used in any other non-exempt
17 manner, the lessor shall be liable for the tax imposed under
18 this Act or the Use Tax Act, as the case may be, based on the
19 fair market value of the property at the time the
20 non-qualifying use occurs. No lessor shall collect or attempt
21 to collect an amount (however designated) that purports to
22 reimburse that lessor for the tax imposed by this Act or the
23 Use Tax Act, as the case may be, if the tax has not been paid by
24 the lessor. If a lessor improperly collects any such amount
25 from the lessee, the lessee shall have a legal right to claim a
26 refund of that amount from the lessor. If, however, that amount

1 is not refunded to the lessee for any reason, the lessor is
2 liable to pay that amount to the Department.

3 (17) Beginning with taxable years ending on or after
4 December 31, 1995 and ending with taxable years ending on or
5 before December 31, 2004, personal property that is donated for
6 disaster relief to be used in a State or federally declared
7 disaster area in Illinois or bordering Illinois by a
8 manufacturer or retailer that is registered in this State to a
9 corporation, society, association, foundation, or institution
10 that has been issued a sales tax exemption identification
11 number by the Department that assists victims of the disaster
12 who reside within the declared disaster area.

13 (18) Beginning with taxable years ending on or after
14 December 31, 1995 and ending with taxable years ending on or
15 before December 31, 2004, personal property that is used in the
16 performance of infrastructure repairs in this State, including
17 but not limited to municipal roads and streets, access roads,
18 bridges, sidewalks, waste disposal systems, water and sewer
19 line extensions, water distribution and purification
20 facilities, storm water drainage and retention facilities, and
21 sewage treatment facilities, resulting from a State or
22 federally declared disaster in Illinois or bordering Illinois
23 when such repairs are initiated on facilities located in the
24 declared disaster area within 6 months after the disaster.

25 (19) Beginning July 1, 1999, game or game birds purchased
26 at a "game breeding and hunting preserve area" or an "exotic

1 game hunting area" as those terms are used in the Wildlife Code
2 or at a hunting enclosure approved through rules adopted by the
3 Department of Natural Resources. This paragraph is exempt from
4 the provisions of Section 3-75.

5 (20) A motor vehicle, as that term is defined in Section
6 1-146 of the Illinois Vehicle Code, that is donated to a
7 corporation, limited liability company, society, association,
8 foundation, or institution that is determined by the Department
9 to be organized and operated exclusively for educational
10 purposes. For purposes of this exemption, "a corporation,
11 limited liability company, society, association, foundation,
12 or institution organized and operated exclusively for
13 educational purposes" means all tax-supported public schools,
14 private schools that offer systematic instruction in useful
15 branches of learning by methods common to public schools and
16 that compare favorably in their scope and intensity with the
17 course of study presented in tax-supported schools, and
18 vocational or technical schools or institutes organized and
19 operated exclusively to provide a course of study of not less
20 than 6 weeks duration and designed to prepare individuals to
21 follow a trade or to pursue a manual, technical, mechanical,
22 industrial, business, or commercial occupation.

23 (21) Beginning January 1, 2000, personal property,
24 including food, purchased through fundraising events for the
25 benefit of a public or private elementary or secondary school,
26 a group of those schools, or one or more school districts if

1 the events are sponsored by an entity recognized by the school
2 district that consists primarily of volunteers and includes
3 parents and teachers of the school children. This paragraph
4 does not apply to fundraising events (i) for the benefit of
5 private home instruction or (ii) for which the fundraising
6 entity purchases the personal property sold at the events from
7 another individual or entity that sold the property for the
8 purpose of resale by the fundraising entity and that profits
9 from the sale to the fundraising entity. This paragraph is
10 exempt from the provisions of Section 3-75.

11 (22) Beginning January 1, 2000 and through December 31,
12 2001, new or used automatic vending machines that prepare and
13 serve hot food and beverages, including coffee, soup, and other
14 items, and replacement parts for these machines. Beginning
15 January 1, 2002 and through June 30, 2003, machines and parts
16 for machines used in commercial, coin-operated amusement and
17 vending business if a use or occupation tax is paid on the
18 gross receipts derived from the use of the commercial,
19 coin-operated amusement and vending machines. This paragraph
20 is exempt from the provisions of Section 3-75.

21 (23) (A) Through June 30, 2008 ~~Beginning August 23, 2001~~
22 ~~and through June 30, 2011~~, food for human consumption that is
23 to be consumed off the premises where it is sold (other than
24 alcoholic beverages, soft drinks, and food that has been
25 prepared for immediate consumption) and prescription and
26 nonprescription medicines, drugs, medical appliances, and

1 insulin, urine testing materials, syringes, and needles used by
2 diabetics, for human use, when purchased for use by a person
3 receiving medical assistance under Article 5 of the Illinois
4 Public Aid Code who resides in a licensed long-term care
5 facility, as defined in the Nursing Home Care Act.

6 (B) On and after July 1, 2008, food and food ingredients
7 (other than prepared food), drugs for human use available by
8 prescription only, and over-the-counter-drugs for human use
9 (other than grooming and hygiene products) when purchased for
10 use by a person receiving medical assistance under Article 5 of
11 the Illinois Public Aid Code who resides in a licensed
12 long-term care facility, as defined in the Nursing Home Care
13 Act. This paragraph is exempt from the provisions of Section
14 3-75.

15 (24) Beginning on the effective date of this amendatory Act
16 of the 92nd General Assembly, computers and communications
17 equipment utilized for any hospital purpose and equipment used
18 in the diagnosis, analysis, or treatment of hospital patients
19 purchased by a lessor who leases the equipment, under a lease
20 of one year or longer executed or in effect at the time the
21 lessor would otherwise be subject to the tax imposed by this
22 Act, to a hospital that has been issued an active tax exemption
23 identification number by the Department under Section 1g of the
24 Retailers' Occupation Tax Act. If the equipment is leased in a
25 manner that does not qualify for this exemption or is used in
26 any other nonexempt manner, the lessor shall be liable for the

1 tax imposed under this Act or the Use Tax Act, as the case may
2 be, based on the fair market value of the property at the time
3 the nonqualifying use occurs. No lessor shall collect or
4 attempt to collect an amount (however designated) that purports
5 to reimburse that lessor for the tax imposed by this Act or the
6 Use Tax Act, as the case may be, if the tax has not been paid by
7 the lessor. If a lessor improperly collects any such amount
8 from the lessee, the lessee shall have a legal right to claim a
9 refund of that amount from the lessor. If, however, that amount
10 is not refunded to the lessee for any reason, the lessor is
11 liable to pay that amount to the Department. This paragraph is
12 exempt from the provisions of Section 3-75.

13 (25) Beginning on the effective date of this amendatory Act
14 of the 92nd General Assembly, personal property purchased by a
15 lessor who leases the property, under a lease of one year or
16 longer executed or in effect at the time the lessor would
17 otherwise be subject to the tax imposed by this Act, to a
18 governmental body that has been issued an active tax exemption
19 identification number by the Department under Section 1g of the
20 Retailers' Occupation Tax Act. If the property is leased in a
21 manner that does not qualify for this exemption or is used in
22 any other nonexempt manner, the lessor shall be liable for the
23 tax imposed under this Act or the Use Tax Act, as the case may
24 be, based on the fair market value of the property at the time
25 the nonqualifying use occurs. No lessor shall collect or
26 attempt to collect an amount (however designated) that purports

1 to reimburse that lessor for the tax imposed by this Act or the
2 Use Tax Act, as the case may be, if the tax has not been paid by
3 the lessor. If a lessor improperly collects any such amount
4 from the lessee, the lessee shall have a legal right to claim a
5 refund of that amount from the lessor. If, however, that amount
6 is not refunded to the lessee for any reason, the lessor is
7 liable to pay that amount to the Department. This paragraph is
8 exempt from the provisions of Section 3-75.

9 (26) On and after July 1, 2008, a "prosthetic device" as
10 defined in this Act. This paragraph is exempt from the
11 provisions of Section 3-75.

12 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
13 94-1002, eff. 7-3-06.)

14 (35 ILCS 110/3-5.5)

15 Sec. 3-5.5. Food and drugs sold by not-for-profit
16 organizations; exemption.

17 (a) Through June 30, 2008, the ~~The~~ Department shall not
18 collect the 1% tax imposed on food for human consumption that
19 is to be consumed off the premises where it is sold (other than
20 alcoholic beverages, soft drinks, and food that has been
21 prepared for immediate consumption) and prescription and
22 nonprescription medicines, drugs, medical appliances, and
23 insulin, urine testing materials, syringes, and needles used by
24 diabetics, for human use from any not-for-profit organization,
25 that sells food in a food distribution program at a price below

1 the retail cost of the food to purchasers who, as a condition
2 of participation in the program, are required to perform
3 community service, located in a county or municipality that
4 notifies the Department, in writing, that the county or
5 municipality does not want the tax to be collected from any of
6 such organizations located in the county or municipality.

7 (b) On and after July 1, 2008, the Department shall not
8 collect the 1% tax imposed on food and food ingredients (other
9 than prepared food), drugs for human use available by
10 prescription only, and over-the-counter-drugs for human use
11 (other than grooming and hygiene products) from any
12 not-for-profit organization, that sells food in a food
13 distribution program at a price below the retail cost of the
14 food to purchasers who, as a condition of participation in the
15 program, are required to perform community service, located in
16 a county or municipality that notifies the Department, in
17 writing, that the county or municipality does not want the tax
18 to be collected from any of such organizations located in the
19 county or municipality.

20 (Source: P.A. 88-374.)

21 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

22 Sec. 3-10. Rate of tax. Unless otherwise provided in this
23 Section, the tax imposed by this Act is at the rate of 6.25% of
24 the selling price of tangible personal property transferred as
25 an incident to the sale of service, but, for the purpose of

1 computing this tax, in no event shall the selling price be less
2 than the cost price of the property to the serviceman.

3 Beginning on July 1, 2000 and through December 31, 2000,
4 with respect to motor fuel, as defined in Section 1.1 of the
5 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
6 the Use Tax Act, the tax is imposed at the rate of 1.25%.

7 With respect to gasohol, as defined in the Use Tax Act, the
8 tax imposed by this Act applies to (i) 70% of the selling price
9 of property transferred as an incident to the sale of service
10 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
11 of the selling price of property transferred as an incident to
12 the sale of service on or after July 1, 2003 and on or before
13 December 31, 2013, and (iii) 100% of the selling price
14 thereafter. If, at any time, however, the tax under this Act on
15 sales of gasohol, as defined in the Use Tax Act, is imposed at
16 the rate of 1.25%, then the tax imposed by this Act applies to
17 100% of the proceeds of sales of gasohol made during that time.

18 With respect to majority blended ethanol fuel, as defined
19 in the Use Tax Act, the tax imposed by this Act does not apply
20 to the selling price of property transferred as an incident to
21 the sale of service on or after July 1, 2003 and on or before
22 December 31, 2013 but applies to 100% of the selling price
23 thereafter.

24 With respect to biodiesel blends, as defined in the Use Tax
25 Act, with no less than 1% and no more than 10% biodiesel, the
26 tax imposed by this Act applies to (i) 80% of the selling price

1 of property transferred as an incident to the sale of service
2 on or after July 1, 2003 and on or before December 31, 2013 and
3 (ii) 100% of the proceeds of the selling price thereafter. If,
4 at any time, however, the tax under this Act on sales of
5 biodiesel blends, as defined in the Use Tax Act, with no less
6 than 1% and no more than 10% biodiesel is imposed at the rate
7 of 1.25%, then the tax imposed by this Act applies to 100% of
8 the proceeds of sales of biodiesel blends with no less than 1%
9 and no more than 10% biodiesel made during that time.

10 With respect to 100% biodiesel, as defined in the Use Tax
11 Act, and biodiesel blends, as defined in the Use Tax Act, with
12 more than 10% but no more than 99% biodiesel, the tax imposed
13 by this Act does not apply to the proceeds of the selling price
14 of property transferred as an incident to the sale of service
15 on or after July 1, 2003 and on or before December 31, 2013 but
16 applies to 100% of the selling price thereafter.

17 At the election of any registered serviceman made for each
18 fiscal year, sales of service in which the aggregate annual
19 cost price of tangible personal property transferred as an
20 incident to the sales of service is less than 35%, or 75% in
21 the case of servicemen transferring prescription drugs or
22 servicemen engaged in graphic arts production, of the aggregate
23 annual total gross receipts from all sales of service, the tax
24 imposed by this Act shall be based on the serviceman's cost
25 price of the tangible personal property transferred as an
26 incident to the sale of those services.

1 Except as otherwise provided in this paragraph, the
2 provisions of this paragraph apply through June 30, 2008. The
3 tax shall be imposed at the rate of 1% on food prepared for
4 immediate consumption and transferred incident to a sale of
5 service subject to this Act or the Service Occupation Tax Act
6 by an entity licensed under the Hospital Licensing Act, the
7 Nursing Home Care Act, or the Child Care Act of 1969. The tax
8 shall also be imposed at the rate of 1% on food for human
9 consumption that is to be consumed off the premises where it is
10 sold (other than alcoholic beverages, soft drinks, and food
11 that has been prepared for immediate consumption and is not
12 otherwise included in this paragraph) and prescription
13 medicines, and nonprescription medicines (other than,
14 beginning July 1, 2008, grooming and hygiene products), drugs
15 (other than, beginning July 1, 2008, grooming and hygiene
16 products), medical appliances, modifications to a motor
17 vehicle for the purpose of rendering it usable by a disabled
18 person, and insulin, urine testing materials, syringes, and
19 needles used by diabetics, for human use. For the purposes of
20 this Section, through December 31, 2007, the term "soft drinks"
21 means any complete, finished, ready-to-use, non-alcoholic
22 drink, whether carbonated or not, including but not limited to
23 soda water, cola, fruit juice, vegetable juice, carbonated
24 water, and all other preparations commonly known as soft drinks
25 of whatever kind or description that are contained in any
26 closed or sealed bottle, can, carton, or container, regardless

1 of size. Through December 31, 2007, "soft drinks" ~~"Soft drinks"~~
2 does not include coffee, tea, non-carbonated water, infant
3 formula, milk or milk products as defined in the Grade A
4 Pasteurized Milk and Milk Products Act, or drinks containing
5 50% or more natural fruit or vegetable juice.

6 On and after July 1, 2008, the tax shall be imposed at the
7 rate of 1% on prepared food transferred incident to a sale of
8 service subject to this Act or the Service Occupation Tax Act
9 by an entity licensed under the Hospital Licensing Act, the
10 Nursing Home Care Act, or the Child Care Act of 1969. On and
11 after July 1, 2008, the tax shall also be imposed at the rate
12 of 1% on food and food ingredients (other than prepared food),
13 drugs for human use available by prescription only, and
14 over-the-counter-drugs for human use (other than grooming and
15 hygiene products).

16 Through June 30, 2008, notwithstanding ~~Notwithstanding~~ any
17 other provisions of this Act, "food for human consumption that
18 is to be consumed off the premises where it is sold" includes
19 all food sold through a vending machine, except soft drinks and
20 food products that are dispensed hot from a vending machine,
21 regardless of the location of the vending machine.

22 Beginning July 1, 2008, notwithstanding any other
23 provisions of this Act, "food and food ingredients" includes
24 all food sold through a vending machine, except soft drinks and
25 food products that are dispensed hot from a vending machine,
26 regardless of the location of the vending machine.

1 If the property that is acquired from a serviceman is
2 acquired outside Illinois and used outside Illinois before
3 being brought to Illinois for use here and is taxable under
4 this Act, the "selling price" on which the tax is computed
5 shall be reduced by an amount that represents a reasonable
6 allowance for depreciation for the period of prior out-of-state
7 use.

8 (Source: P.A. 93-17, eff. 6-11-03.)

9 (35 ILCS 110/3-10.3 new)

10 Sec. 3-10.3. Electronic database; relief for incorrect
11 data in database. Upon the State of Illinois becoming a member
12 of the Streamlined Sales and Use Tax Agreement and in
13 conformance with the required effective dates set by the
14 governing board of the Streamlined Sales and Use Tax Agreement
15 for the availability and use of the database, the Department
16 shall create and maintain an electronic database of all State
17 and local Retailers' Occupation Tax and Use Tax rates for all
18 jurisdictions levying such taxes in this State. The database
19 shall be provided and maintained in the manner required by
20 Section 305 of the Streamlined Sales and Use Tax Agreement.
21 Taxpayers and Certified Service Providers are relieved from
22 liability to the State and local jurisdictions for paying tax
23 under this Act or any local occupation tax resulting from that
24 taxpayer or Certified Service Provider relying on erroneous
25 data contained in the database (other than an address based

1 database as described in subsection (G) of Section 305 of the
2 Streamlined Sales and Use Tax Agreement or pursuant to the
3 federal Mobile Telecommunications Sourcing Act). Such relief
4 from liability shall not apply when the purchased product is
5 received by the purchaser at the business location of the
6 seller.

7 (35 ILCS 110/3-25) (from Ch. 120, par. 439.33-25)

8 Sec. 3-25. Computer software; prewritten computer
9 software; upgrades.

10 (a) Before January 1, 2008, for ~~For~~ the purposes of this
11 Act, "computer software" means a set of statements, data, or
12 instructions to be used directly or indirectly in a computer in
13 order to bring about a certain result in any form in which
14 those statements, data, or instructions may be embodied,
15 transmitted, or fixed, by any method now known or hereafter
16 developed, regardless of whether the statements, data, or
17 instructions are capable of being perceived by or communicated
18 to humans, and includes prewritten or canned software that is
19 held for repeated sale or lease, and all associated
20 documentation and materials, if any, whether contained on
21 magnetic tapes, discs, cards, or other devices or media, but
22 does not include software that is adapted to specific
23 individualized requirements of a purchaser, custom-made and
24 modified software designed for a particular or limited use by a
25 purchaser, or software used to operate exempt machinery and

1 equipment used in the process of manufacturing or assembling
2 tangible personal property for wholesale or retail sale or
3 lease.

4 For the purposes of this Act, computer software shall be
5 considered to be tangible personal property.

6 (b) On and after January 1, 2008, "computer software" has
7 the meaning set forth in Section 2-25 of the Use Tax Act.

8 (c) On and after January 1, 2008, "prewritten computer
9 software" has the meaning set forth in Section 2-25 of the Use
10 Tax Act.

11 (Source: P.A. 91-51, eff. 6-30-99.)

12 (35 ILCS 110/3-40) (from Ch. 120, par. 439.33-40)

13 Sec. 3-40. Collection. The tax imposed by this Act shall be
14 collected at the time of purchase in the manner prescribed by
15 the Department from the user by a Certified Service Provider or
16 a serviceman maintaining a place of business in this State or,
17 beginning July 1, 2008, by a Certified Service Provider or a
18 serviceman authorized by the Department under Section 7 of this
19 Act, and the tax shall be remitted to the Department as
20 provided in Section 9 of this Act.

21 The tax imposed by this Act that is not paid to a
22 serviceman or a Certified Service Provider under this Section
23 shall be paid to the Department directly by any person using
24 the property within this State as provided in Section 10 of
25 this Act.

1 If a serviceman or a Certified Service Provider collects
2 Service Use Tax measured by receipts or selling prices that are
3 not subject to Service Use Tax, or if a serviceman, in
4 collecting Service Use Tax measured by receipts or selling
5 prices that are subject to tax under this Act, collects more
6 from the purchaser than the required amount of the Service Use
7 Tax on the transaction, the purchaser shall have a legal right
8 to claim a refund of that amount from the serviceman or the
9 Certified Service Provider. If, however, that amount is not
10 refunded to the purchaser for any reason, the serviceman or the
11 Certified Service Provider is liable to pay that amount to the
12 Department. This paragraph does not apply to an amount
13 collected by the serviceman as Service Use Tax on receipts or
14 selling prices that are subject to tax under this Act as long
15 as the collection is made in compliance with ~~the tax collection~~
16 ~~brackets prescribed by~~ the Department in its rules and
17 regulations.

18 (Source: P.A. 91-51, eff. 6-30-99.)

19 (35 ILCS 110/5) (from Ch. 120, par. 439.35)

20 Sec. 5. Every Certified Service Provider or serviceman
21 maintaining a place of business in this State and making sales
22 of service involving the incidental transfer of property for
23 use in this State (whether those sales are made within or
24 without this State) shall, when collecting the tax as provided
25 in Section 3-40 of this Act from the purchaser, give to the

1 purchaser (if demanded by the purchaser) a receipt for the tax
2 in the manner and form prescribed by the Department. The
3 receipt shall be sufficient to relieve the purchaser from
4 further liability for the tax to which the receipt may refer.
5 Each Certified Service Provider or serviceman shall list with
6 the Department the names and addresses of all of his or her
7 agents operating in this State and the location of any and all
8 of his or her distribution or sales houses, offices, or other
9 places of business in this State.

10 (Source: P.A. 86-1475.)

11 (35 ILCS 110/6) (from Ch. 120, par. 439.36)

12 Sec. 6. A serviceman maintaining a place of business in
13 this State, if required to register under the Retailers'
14 Occupation Tax Act, or under the Use Tax Act, or under the
15 Service Occupation Tax Act, need not obtain an additional
16 Certificate of Registration under this Act, but shall be deemed
17 to be sufficiently registered by virtue of his being registered
18 under the Retailers' Occupation Tax Act, or under the Use Tax
19 Act, or under the Service Occupation Tax Act. Every serviceman
20 maintaining a place of business in this State, if not required
21 to register under the Retailers' Occupation Tax Act, or under
22 the Use Tax Act, or under the Service Occupation Tax Act, shall
23 apply to the Department (upon a form prescribed and furnished
24 by the Department) for a Certificate of Registration under this
25 Act. In completing such application, the applicant shall

1 furnish such information as the Department may reasonably
2 require. Upon approval of an application for Certificate of
3 Registration, the Department shall issue, without charge, a
4 Certificate of Registration to the applicant. Such Certificate
5 of Registration shall be displayed at the address which the
6 applicant states in his application to be the principal place
7 of business or location from which he will act as a serviceman
8 in this State. If the applicant will act as a serviceman in
9 this State from other places of business or locations, he shall
10 list the addresses of such additional places of business or
11 locations in his application for Certificate of Registration,
12 and the Department shall issue a Sub-Certificate of
13 Registration to the applicant for each such additional place of
14 business or location. Each Sub-Certificate of Registration
15 shall be conspicuously displayed at the place for which it is
16 issued. Such Sub-Certificate of Registration shall bear the
17 same registration number as that appearing upon the Certificate
18 of Registration to which such Sub-Certificates relate. Where a
19 serviceman operates more than one place of business which is
20 subject to registration under this Section and such businesses
21 are substantially different in character or are engaged in
22 under different trade names or are engaged in under other
23 substantially dissimilar circumstances (so that it is more
24 practicable, from an accounting, auditing or bookkeeping
25 standpoint, for such businesses to be separately registered),
26 the Department may require or permit such person to apply for

1 and obtain a separate Certificate of Registration for each such
2 business or for any of such businesses instead of registering
3 such person, as to all such businesses, under a single
4 Certificate of Registration supplemented by related
5 Sub-Certificates of Registration. No Certificate of
6 Registration shall be issued to any person who is in default to
7 the State of Illinois for moneys due hereunder.

8 The provisions of this paragraph are effective beginning
9 July 1, 2008. An applicant for registration that chooses to
10 register under the Streamlined Sales and Use Tax Agreement and
11 that is not otherwise required to be registered under this Act,
12 may register through the Streamlined Sales Tax online
13 registration system. No signature is required for such
14 registration through that system and an agent may register on
15 behalf of an applicant under the procedures set forth under
16 that system and rules adopted by the Department. Applicants for
17 registration that choose to register under the Streamlined
18 Sales and Use Tax Agreement and are required to be registered
19 under this Act may register through the Streamlined Sales Tax
20 online registration system, but will also be required to
21 provide any additional information and documentation required
22 under this Section before that applicant is properly registered
23 in this State. By registering under the Streamlined Sales and
24 Use Tax Agreement, the seller agrees to collect and remit sales
25 and use taxes for all taxable sales into Streamlined Sales Tax
26 Agreement member states, including member states that join

1 after the sellers' registration.

2 (Source: Laws 1961, p. 1757.)

3 (35 ILCS 110/7) (from Ch. 120, par. 439.37)

4 Sec. 7. The Department may, in its discretion, upon
5 application, authorize the collection of the tax herein imposed
6 by any serviceman not maintaining a place of business within
7 this State, who, to the satisfaction of the Department,
8 furnishes adequate security to insure collection and payment of
9 the tax. Such serviceman shall be issued, without charge, a
10 permit to collect such tax. When so authorized, it shall be the
11 duty of such serviceman to collect the tax upon all tangible
12 personal property sold to his knowledge for use within this
13 State, in the same manner and subject to the same requirements,
14 including the furnishing of a receipt to the purchaser (if
15 demanded by the purchaser), as a serviceman maintaining a place
16 of business within this State. The receipt given to the
17 purchaser shall be sufficient to relieve him from further
18 liability for the tax to which such receipt may refer. Such
19 permit may be revoked by the Department as provided herein.

20 The provisions of this paragraph are effective beginning
21 July 1, 2008. An applicant for registration that chooses to
22 register under the Streamlined Sales and Use Tax Agreement and
23 that is not otherwise required to be registered under this Act,
24 may register through the Streamlined Sales Tax online
25 registration system. No signature is required for such

1 registration through that system and an agent may register on
2 behalf of an applicant under the procedures set forth under
3 that system and rules adopted by the Department. Applicants for
4 registration that choose to register under the Streamlined
5 Sales and Use Tax Agreement and are required to be registered
6 under this Act may register through the Streamlined Sales Tax
7 online registration system, but will also be required to
8 provide any additional information and documentation required
9 under this Section before that applicant is properly registered
10 in this State. By registering under the Streamlined Sales and
11 Use Tax Agreement, the seller agrees to collect and remit sales
12 and use taxes for all taxable sales into Streamlined Sales Tax
13 Agreement member states, including member states that join
14 after the sellers' registration.

15 (Source: Laws 1961, p. 1757.)

16 (35 ILCS 110/7a) (from Ch. 120, par. 439.37a)

17 Sec. 7a. It is unlawful for any serviceman or Certified
18 Service Provider to advertise or hold out or state to the
19 public or to any service customer, purchaser, consumer or user,
20 directly or indirectly, that the tax imposed by this Act or any
21 part thereof will be assumed or absolved by the serviceman or
22 Certified Service Provider or that it will not be added to the
23 selling price of the property transferred as an incident to a
24 sale of service, or if added that it or any part thereof will
25 be refunded other than when the serviceman or Certified Service

1 Provider refunds the selling price and tax because of the
2 merchandise being returned to the serviceman or Certified
3 Service Provider or other than when the serviceman or Certified
4 Service Provider credits or refunds the tax to the service
5 customer to support a claim filed with the Department under the
6 Service Occupation Tax Act or under this Act. Any person
7 violating any of the provisions of this Section within the
8 State shall be guilty of a Class A misdemeanor.

9 (Source: P.A. 91-51, eff. 6-30-99.)

10 (35 ILCS 110/8) (from Ch. 120, par. 439.38)

11 Sec. 8. Any serviceman or Certified Service Provider
12 required to collect the tax imposed by this Act shall be liable
13 to the Department for the tax, whether or not the tax has been
14 collected by the serviceman or Certified Service Provider,
15 except when the serviceman or Certified Service Provider is
16 relieved of the duty of remitting the tax to the Department by
17 virtue of having paid a tax imposed by the Service Occupation
18 Tax Act upon his or her sale of service involving the
19 incidental transfer by him or her of the same property. To the
20 extent that a serviceman or Certified Service Provider required
21 to collect the tax imposed by this Act has actually collected
22 that tax, the tax is held in trust for the benefit of the
23 Department.

24 (Source: P.A. 91-203, eff. 7-20-99.)

1 (35 ILCS 110/9) (from Ch. 120, par. 439.39)

2 Sec. 9. Each serviceman required or authorized to collect
3 the tax herein imposed shall pay to the Department the amount
4 of such tax (except as otherwise provided) at the time when he
5 is required to file his return for the period during which such
6 tax was collected, less a discount of 2.1% prior to January 1,
7 1990 and 1.75% on and after January 1, 1990, or \$5 per calendar
8 year, whichever is greater, which is allowed to reimburse the
9 serviceman for expenses incurred in collecting the tax, keeping
10 records, preparing and filing returns, remitting the tax and
11 supplying data to the Department on request. A serviceman need
12 not remit that part of any tax collected by him to the extent
13 that he is required to pay and does pay the tax imposed by the
14 Service Occupation Tax Act with respect to his sale of service
15 involving the incidental transfer by him of the same property.

16 Except as provided hereinafter in this Section, on or
17 before the twentieth day of each calendar month, such
18 serviceman shall file a return for the preceding calendar month
19 in accordance with reasonable Rules and Regulations to be
20 promulgated by the Department. Such return shall be filed on a
21 form prescribed by the Department and shall contain such
22 information as the Department may reasonably require.

23 The Department may require returns to be filed on a
24 quarterly basis. If so required, a return for each calendar
25 quarter shall be filed on or before the twentieth day of the
26 calendar month following the end of such calendar quarter. The

1 taxpayer shall also file a return with the Department for each
2 of the first two months of each calendar quarter, on or before
3 the twentieth day of the following calendar month, stating:

4 1. The name of the seller;

5 2. The address of the principal place of business from
6 which he engages in business as a serviceman in this State;

7 3. The total amount of taxable receipts received by him
8 during the preceding calendar month, including receipts
9 from charge and time sales, but less all deductions allowed
10 by law;

11 4. The amount of credit provided in Section 2d of this
12 Act;

13 5. The amount of tax due;

14 5-5. The signature of the taxpayer; and

15 6. Such other reasonable information as the Department
16 may require.

17 The provisions of this paragraph are effective beginning
18 July 1, 2008. Sellers that have chosen to be Model 1 sellers
19 are not required to file returns and remit tax to the
20 Department for sales made through a Certified Service Provider.
21 Each Certified Service Provider for a Model I seller shall file
22 returns and pay the appropriate amount of tax to the Department
23 in the same manner as other taxpayers that are registered under
24 the Streamlined Sales and Use Tax Agreement. In lieu of the
25 return described in this Section, taxpayers, other than Model 1
26 taxpayers, that have chosen to be registered under the

1 Streamlined Sales and Use Tax Agreement and Certified Service
2 Providers shall submit returns in a simplified format that
3 conforms to the requirements set forth by the Governing Board
4 of the Streamlined Sales and Use Tax Agreement. Such taxpayers
5 and Certified Service Providers shall file additional
6 informational returns developed by the Department every 6
7 months under the staggered system set forth by the Governing
8 Board of the Streamlined Sales and Use Tax Agreement. The
9 Department may require by rule that the simplified returns and
10 informational returns be filed in an electronic format. The
11 Department shall by regulation provide guidance to allow a
12 Certified Service Provider a deduction for bad debts as is
13 allowed to taxpayers that report and remit tax directly to the
14 Department, consistent with Section 166 of the Internal Revenue
15 Code and such other adjustments as the Department may require
16 in regulation.

17 If a taxpayer fails to sign a return within 30 days after
18 the proper notice and demand for signature by the Department,
19 the return shall be considered valid and any amount shown to be
20 due on the return shall be deemed assessed.

21 Beginning October 1, 1993, a taxpayer who has an average
22 monthly tax liability of \$150,000 or more shall make all
23 payments required by rules of the Department by electronic
24 funds transfer. Beginning October 1, 1994, a taxpayer who has
25 an average monthly tax liability of \$100,000 or more shall make
26 all payments required by rules of the Department by electronic

1 funds transfer. Beginning October 1, 1995, a taxpayer who has
2 an average monthly tax liability of \$50,000 or more shall make
3 all payments required by rules of the Department by electronic
4 funds transfer. Beginning October 1, 2000, a taxpayer who has
5 an annual tax liability of \$200,000 or more shall make all
6 payments required by rules of the Department by electronic
7 funds transfer. The term "annual tax liability" shall be the
8 sum of the taxpayer's liabilities under this Act, and under all
9 other State and local occupation and use tax laws administered
10 by the Department, for the immediately preceding calendar year.
11 The term "average monthly tax liability" means the sum of the
12 taxpayer's liabilities under this Act, and under all other
13 State and local occupation and use tax laws administered by the
14 Department, for the immediately preceding calendar year
15 divided by 12. Beginning on October 1, 2002, a taxpayer who has
16 a tax liability in the amount set forth in subsection (b) of
17 Section 2505-210 of the Department of Revenue Law shall make
18 all payments required by rules of the Department by electronic
19 funds transfer. Beginning on July 1, 2008 and in addition to the
20 requirements of this Section, taxpayers that have chosen to be
21 registered under the Streamlined Sales and Use Tax Agreement
22 and any Certified Service Providers shall make all payments of
23 tax imposed under this Act through use of electronic funds
24 transfer.

25 Before August 1 of each year beginning in 1993, the
26 Department shall notify all taxpayers required to make payments

1 by electronic funds transfer. All taxpayers required to make
2 payments by electronic funds transfer shall make those payments
3 for a minimum of one year beginning on October 1.

4 Any taxpayer not required to make payments by electronic
5 funds transfer may make payments by electronic funds transfer
6 with the permission of the Department.

7 All taxpayers required to make payment by electronic funds
8 transfer and any taxpayers authorized to voluntarily make
9 payments by electronic funds transfer shall make those payments
10 in the manner authorized by the Department.

11 The Department shall adopt such rules as are necessary to
12 effectuate a program of electronic funds transfer and the
13 requirements of this Section.

14 If the serviceman is otherwise required to file a monthly
15 return and if the serviceman's average monthly tax liability to
16 the Department does not exceed \$200, the Department may
17 authorize his returns to be filed on a quarter annual basis,
18 with the return for January, February and March of a given year
19 being due by April 20 of such year; with the return for April,
20 May and June of a given year being due by July 20 of such year;
21 with the return for July, August and September of a given year
22 being due by October 20 of such year, and with the return for
23 October, November and December of a given year being due by
24 January 20 of the following year.

25 If the serviceman is otherwise required to file a monthly
26 or quarterly return and if the serviceman's average monthly tax

1 liability to the Department does not exceed \$50, the Department
2 may authorize his returns to be filed on an annual basis, with
3 the return for a given year being due by January 20 of the
4 following year.

5 Such quarter annual and annual returns, as to form and
6 substance, shall be subject to the same requirements as monthly
7 returns.

8 Notwithstanding any other provision in this Act concerning
9 the time within which a serviceman may file his return, in the
10 case of any serviceman who ceases to engage in a kind of
11 business which makes him responsible for filing returns under
12 this Act, such serviceman shall file a final return under this
13 Act with the Department not more than 1 month after
14 discontinuing such business.

15 Where a serviceman collects the tax with respect to the
16 selling price of property which he sells and the purchaser
17 thereafter returns such property and the serviceman refunds the
18 selling price thereof to the purchaser, such serviceman shall
19 also refund, to the purchaser, the tax so collected from the
20 purchaser. When filing his return for the period in which he
21 refunds such tax to the purchaser, the serviceman may deduct
22 the amount of the tax so refunded by him to the purchaser from
23 any other Service Use Tax, Service Occupation Tax, retailers'
24 occupation tax or use tax which such serviceman may be required
25 to pay or remit to the Department, as shown by such return,
26 provided that the amount of the tax to be deducted shall

1 previously have been remitted to the Department by such
2 serviceman. If the serviceman shall not previously have
3 remitted the amount of such tax to the Department, he shall be
4 entitled to no deduction hereunder upon refunding such tax to
5 the purchaser.

6 Any serviceman filing a return hereunder shall also include
7 the total tax upon the selling price of tangible personal
8 property purchased for use by him as an incident to a sale of
9 service, and such serviceman shall remit the amount of such tax
10 to the Department when filing such return.

11 If experience indicates such action to be practicable, the
12 Department may prescribe and furnish a combination or joint
13 return which will enable servicemen, who are required to file
14 returns hereunder and also under the Service Occupation Tax
15 Act, to furnish all the return information required by both
16 Acts on the one form.

17 Where the serviceman has more than one business registered
18 with the Department under separate registration hereunder,
19 such serviceman shall not file each return that is due as a
20 single return covering all such registered businesses, but
21 shall file separate returns for each such registered business.

22 Beginning January 1, 1990, each month the Department shall
23 pay into the State and Local Tax Reform Fund, a special fund in
24 the State Treasury, the net revenue realized for the preceding
25 month from the 1% tax on sales of food for human consumption
26 which is to be consumed off the premises where it is sold

1 (other than alcoholic beverages, soft drinks and food which has
2 been prepared for immediate consumption) and prescription and
3 nonprescription medicines, drugs, medical appliances and
4 insulin, urine testing materials, syringes and needles used by
5 diabetics.

6 Beginning July 1, 2008, each month the Department shall pay
7 into the State and Local Tax Reform Fund, a special fund in the
8 State Treasury, the net revenue realized for the preceding
9 month from the 1% tax on sales of food and food ingredients
10 (other than prepared food), drugs for human use available by
11 prescription only, and over-the-counter-drugs for human use
12 (other than grooming and hygiene products).

13 Beginning January 1, 1990, each month the Department shall
14 pay into the State and Local Sales Tax Reform Fund 20% of the
15 net revenue realized for the preceding month from the 6.25%
16 general rate on transfers of tangible personal property, other
17 than tangible personal property which is purchased outside
18 Illinois at retail from a retailer and which is titled or
19 registered by an agency of this State's government.

20 Beginning August 1, 2000, each month the Department shall
21 pay into the State and Local Sales Tax Reform Fund 100% of the
22 net revenue realized for the preceding month from the 1.25%
23 rate on the selling price of motor fuel and gasohol.

24 Of the remainder of the moneys received by the Department
25 pursuant to this Act, (a) 1.75% thereof shall be paid into the
26 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on

1 and after July 1, 1989, 3.8% thereof shall be paid into the
2 Build Illinois Fund; provided, however, that if in any fiscal
3 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
4 may be, of the moneys received by the Department and required
5 to be paid into the Build Illinois Fund pursuant to Section 3
6 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax
7 Act, Section 9 of the Service Use Tax Act, and Section 9 of the
8 Service Occupation Tax Act, such Acts being hereinafter called
9 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case
10 may be, of moneys being hereinafter called the "Tax Act
11 Amount", and (2) the amount transferred to the Build Illinois
12 Fund from the State and Local Sales Tax Reform Fund shall be
13 less than the Annual Specified Amount (as defined in Section 3
14 of the Retailers' Occupation Tax Act), an amount equal to the
15 difference shall be immediately paid into the Build Illinois
16 Fund from other moneys received by the Department pursuant to
17 the Tax Acts; and further provided, that if on the last
18 business day of any month the sum of (1) the Tax Act Amount
19 required to be deposited into the Build Illinois Bond Account
20 in the Build Illinois Fund during such month and (2) the amount
21 transferred during such month to the Build Illinois Fund from
22 the State and Local Sales Tax Reform Fund shall have been less
23 than 1/12 of the Annual Specified Amount, an amount equal to
24 the difference shall be immediately paid into the Build
25 Illinois Fund from other moneys received by the Department
26 pursuant to the Tax Acts; and, further provided, that in no

1 event shall the payments required under the preceding proviso
2 result in aggregate payments into the Build Illinois Fund
3 pursuant to this clause (b) for any fiscal year in excess of
4 the greater of (i) the Tax Act Amount or (ii) the Annual
5 Specified Amount for such fiscal year; and, further provided,
6 that the amounts payable into the Build Illinois Fund under
7 this clause (b) shall be payable only until such time as the
8 aggregate amount on deposit under each trust indenture securing
9 Bonds issued and outstanding pursuant to the Build Illinois
10 Bond Act is sufficient, taking into account any future
11 investment income, to fully provide, in accordance with such
12 indenture, for the defeasance of or the payment of the
13 principal of, premium, if any, and interest on the Bonds
14 secured by such indenture and on any Bonds expected to be
15 issued thereafter and all fees and costs payable with respect
16 thereto, all as certified by the Director of the Bureau of the
17 Budget (now Governor's Office of Management and Budget). If on
18 the last business day of any month in which Bonds are
19 outstanding pursuant to the Build Illinois Bond Act, the
20 aggregate of the moneys deposited in the Build Illinois Bond
21 Account in the Build Illinois Fund in such month shall be less
22 than the amount required to be transferred in such month from
23 the Build Illinois Bond Account to the Build Illinois Bond
24 Retirement and Interest Fund pursuant to Section 13 of the
25 Build Illinois Bond Act, an amount equal to such deficiency
26 shall be immediately paid from other moneys received by the

1 Department pursuant to the Tax Acts to the Build Illinois Fund;
 2 provided, however, that any amounts paid to the Build Illinois
 3 Fund in any fiscal year pursuant to this sentence shall be
 4 deemed to constitute payments pursuant to clause (b) of the
 5 preceding sentence and shall reduce the amount otherwise
 6 payable for such fiscal year pursuant to clause (b) of the
 7 preceding sentence. The moneys received by the Department
 8 pursuant to this Act and required to be deposited into the
 9 Build Illinois Fund are subject to the pledge, claim and charge
 10 set forth in Section 12 of the Build Illinois Bond Act.

11 Subject to payment of amounts into the Build Illinois Fund
 12 as provided in the preceding paragraph or in any amendment
 13 thereto hereafter enacted, the following specified monthly
 14 installment of the amount requested in the certificate of the
 15 Chairman of the Metropolitan Pier and Exposition Authority
 16 provided under Section 8.25f of the State Finance Act, but not
 17 in excess of the sums designated as "Total Deposit", shall be
 18 deposited in the aggregate from collections under Section 9 of
 19 the Use Tax Act, Section 9 of the Service Use Tax Act, Section
 20 9 of the Service Occupation Tax Act, and Section 3 of the
 21 Retailers' Occupation Tax Act into the McCormick Place
 22 Expansion Project Fund in the specified fiscal years.

23	Fiscal Year	Total
		Deposit
24	1993	\$0
25	1994	53,000,000

1	1995	58,000,000
2	1996	61,000,000
3	1997	64,000,000
4	1998	68,000,000
5	1999	71,000,000
6	2000	75,000,000
7	2001	80,000,000
8	2002	93,000,000
9	2003	99,000,000
10	2004	103,000,000
11	2005	108,000,000
12	2006	113,000,000
13	2007	119,000,000
14	2008	126,000,000
15	2009	132,000,000
16	2010	139,000,000
17	2011	146,000,000
18	2012	153,000,000
19	2013	161,000,000
20	2014	170,000,000
21	2015	179,000,000
22	2016	189,000,000
23	2017	199,000,000
24	2018	210,000,000
25	2019	221,000,000
26	2020	233,000,000

1	2021	246,000,000
2	2022	260,000,000
3	2023 and	275,000,000

4 each fiscal year

5 thereafter that bonds

6 are outstanding under

7 Section 13.2 of the

8 Metropolitan Pier and

9 Exposition Authority Act,

10 but not after fiscal year 2042.

11 Beginning July 20, 1993 and in each month of each fiscal
12 year thereafter, one-eighth of the amount requested in the
13 certificate of the Chairman of the Metropolitan Pier and
14 Exposition Authority for that fiscal year, less the amount
15 deposited into the McCormick Place Expansion Project Fund by
16 the State Treasurer in the respective month under subsection
17 (g) of Section 13 of the Metropolitan Pier and Exposition
18 Authority Act, plus cumulative deficiencies in the deposits
19 required under this Section for previous months and years,
20 shall be deposited into the McCormick Place Expansion Project
21 Fund, until the full amount requested for the fiscal year, but
22 not in excess of the amount specified above as "Total Deposit",
23 has been deposited.

24 Subject to payment of amounts into the Build Illinois Fund
25 and the McCormick Place Expansion Project Fund pursuant to the
26 preceding paragraphs or in any amendments thereto hereafter

1 enacted, beginning July 1, 1993, the Department shall each
2 month pay into the Illinois Tax Increment Fund 0.27% of 80% of
3 the net revenue realized for the preceding month from the 6.25%
4 general rate on the selling price of tangible personal
5 property.

6 Subject to payment of amounts into the Build Illinois Fund
7 and the McCormick Place Expansion Project Fund pursuant to the
8 preceding paragraphs or in any amendments thereto hereafter
9 enacted, beginning with the receipt of the first report of
10 taxes paid by an eligible business and continuing for a 25-year
11 period, the Department shall each month pay into the Energy
12 Infrastructure Fund 80% of the net revenue realized from the
13 6.25% general rate on the selling price of Illinois-mined coal
14 that was sold to an eligible business. For purposes of this
15 paragraph, the term "eligible business" means a new electric
16 generating facility certified pursuant to Section 605-332 of
17 the Department of Commerce and Economic Opportunity Law of the
18 Civil Administrative Code of Illinois.

19 All remaining moneys received by the Department pursuant to
20 this Act shall be paid into the General Revenue Fund of the
21 State Treasury.

22 As soon as possible after the first day of each month, upon
23 certification of the Department of Revenue, the Comptroller
24 shall order transferred and the Treasurer shall transfer from
25 the General Revenue Fund to the Motor Fuel Tax Fund an amount
26 equal to 1.7% of 80% of the net revenue realized under this Act

1 for the second preceding month. Beginning April 1, 2000, this
2 transfer is no longer required and shall not be made.

3 Net revenue realized for a month shall be the revenue
4 collected by the State pursuant to this Act, less the amount
5 paid out during that month as refunds to taxpayers for
6 overpayment of liability.

7 (Source: P.A. 94-793, eff. 5-19-06; 94-1074, eff. 12-26-06.)

8 (35 ILCS 110/10) (from Ch. 120, par. 439.40)

9 Sec. 10. Where property is acquired as an incident to the
10 purchase of a service from a serviceman for use in this State
11 by a purchaser who did not pay the tax herein imposed to the
12 serviceman or, beginning on July 1, 2008, a Certified Service
13 Provider, and who does not file returns with the Department as
14 a serviceman under Section 9 of this Act, such purchaser (by
15 the last day of the month following the calendar month in which
16 such purchaser makes any payment upon the selling price of such
17 property) shall, except as hereinafter provided in this
18 Section, file a return with the Department and pay the tax upon
19 that portion of the selling price so paid by the purchaser
20 during the preceding calendar month. Such return shall be filed
21 on a form prescribed by the Department and shall contain such
22 information as the Department may reasonably require.

23 When a purchaser pays a tax herein imposed directly to the
24 Department, the Department (upon request therefor from such
25 purchaser) shall issue an appropriate receipt to such purchaser

1 showing that he has paid such tax to the Department. Such
2 receipt shall be sufficient to relieve the purchaser from
3 further liability from the tax to which such receipt may refer.

4 A user who is liable to pay Service Use Tax directly to the
5 Department only occasionally and not on a frequently recurring
6 basis, and who is not required to file returns within the
7 Department as a serviceman under Section 9 of this Act, or as a
8 serviceman under the "Service Occupation Tax Act", or as a
9 retailer or user under the "Use Tax Act", or as a retailer
10 under the "Retailers' Occupation Tax Act", need not register
11 with the Department. However, if such a user has a frequently
12 recurring direct Service Use Tax liability to pay to the
13 Department, such user shall be required to register with the
14 Department on forms prescribed by the Department and to obtain
15 and display a certificate of registration from the Department.
16 In that event, all of the provisions of Section 9 of this Act
17 concerning the filing of regular monthly, quarterly or annual
18 tax returns and all of the provisions of Section 2a of the
19 "Retailers' Occupation Tax Act" concerning the requirements
20 for registrants to post bond or other security with the
21 Department, as the provisions of such sections now exist or may
22 hereafter be amended, shall apply to such users to the same
23 extent as if such provisions were included herein.

24 (Source: P.A. 91-51, eff. 6-30-99.)

25 (35 ILCS 110/11) (from Ch. 120, par. 439.41)

1 Sec. 11. Every serviceman or, beginning July 1, 2008, every
2 Certified Service Provider required or authorized to collect
3 taxes hereunder and every user who is subject to the tax
4 imposed by this Act shall keep such records, receipts, invoices
5 and other pertinent books, documents, memoranda and papers as
6 the Department shall require, in such form as the Department
7 shall require. The Department may adopt rules that establish
8 requirements, including record forms and formats, for records
9 required to be kept and maintained by taxpayers. For purposes
10 of this Section, "records" means all data maintained by the
11 taxpayer, including data on paper, microfilm, microfiche or any
12 type of machine-sensible data compilation. For the purpose of
13 administering and enforcing the provisions hereof, the
14 Department, or any officer or employee of the Department
15 designated, in writing, by the Director thereof, may hold
16 investigations and hearings concerning any matters covered
17 herein and may examine any relevant books, papers, records,
18 documents or memoranda of any serviceman or Certified Service
19 Provider or any taxable purchaser for use hereunder, and may
20 require the attendance of such person or any officer or
21 employee of such person, or of any person having knowledge of
22 the facts, and may take testimony and require proof for its
23 information.

24 (Source: P.A. 88-480.)

25 (35 ILCS 110/12) (from Ch. 120, par. 439.42)

1 Sec. 12. Applicability of Retailers' Occupation Tax Act and
2 Uniform Penalty and Interest Act. All of the provisions of
3 Sections 1d, 1e, 1f, 1i, 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2-10.2,
4 2-54, 2a, 2b, 2c, 3 (except as to the disposition by the
5 Department of the money collected under this Act), 3.5, 3.6,
6 3.8, 4 (except that the time limitation provisions shall run
7 from the date when gross receipts are received), 5 (except that
8 the time limitation provisions on the issuance of notices of
9 tax liability shall run from the date when the tax is due
10 rather than from the date when gross receipts are received and
11 except that in the case of a failure to file a return required
12 by this Act, no notice of tax liability shall be issued on and
13 after July 1 and January 1 covering tax due with that return
14 during any month or period more than 6 years before that July 1
15 or January 1, respectively), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j,
16 5k, 5l, 7, 8, 9, 10, 11 and 12 of the Retailers' Occupation Tax
17 Act which are not inconsistent with this Act, and Section 3-7
18 of the Uniform Penalty and Interest Act, shall apply, as far as
19 practicable, to the subject matter of this Act to the same
20 extent as if such provisions were included herein.

21 (Source: P.A. 94-781, eff. 5-19-06; 94-1021, eff. 7-12-06;
22 revised 8-03-06.)

23 (35 ILCS 110/14) (from Ch. 120, par. 439.44)

24 Sec. 14. Whenever any serviceman or, beginning July 1,
25 2008, every Certified Service Provider not maintaining a place

1 of business in this State, to whom a permit to collect the tax
2 hereby imposed has been issued pursuant to Section 7 hereof,
3 fails to comply with any of the provisions hereof or any
4 orders, Rules or Regulations of the Department prescribed and
5 adopted hereunder, or when the Department considers the
6 security furnished by such serviceman to be inadequate or
7 considers that the tax can be collected more effectively from
8 persons using such property in this State, the Department may,
9 upon notice and hearing as herein provided, by order revoke the
10 permit issued to such serviceman or Certified Service Provider.
11 No order authorized by this Section shall be made until the
12 serviceman or Certified Service Provider is given an
13 opportunity to be heard and to show cause why such order shall
14 not be made, and he shall be given at least 7 days' notice of
15 the time, place and purpose of such hearing. The Department
16 shall have the power in its discretion to issue a new permit
17 pursuant to Section 7 hereof after such revocation.

18 (Source: Laws 1961, p. 1757.)

19 (35 ILCS 110/17) (from Ch. 120, par. 439.47)

20 Sec. 17. If it shall appear that an amount of tax or
21 penalty or interest has been paid in error hereunder to the
22 Department by a purchaser, as distinguished from the serviceman
23 or Certified Service Provider, whether such amount be paid
24 through a mistake of fact or an error of law, such purchaser
25 may file a claim for credit or refund with the Department. If

1 it shall appear that an amount of tax or penalty or interest
2 has been paid in error to the Department hereunder by a
3 serviceman or, beginning July 1, 2008, by a Certified Service
4 Provider who is required or authorized to collect and remit the
5 Service Use Tax, whether such amount be paid through a mistake
6 of fact or an error of law, such serviceman or Certified
7 Service Provider may file a claim for credit or refund with the
8 Department, provided that no credit shall be allowed or refund
9 made for any amount paid by any such serviceman or Certified
10 Service Provider unless it shall appear that he bore the burden
11 of such amount and did not shift the burden thereof to anyone
12 else (as in the case of a duplicated tax payment which the
13 serviceman or Certified Service Provider made to the Department
14 and did not collect from anyone else), or unless it shall
15 appear that he or his legal representative has unconditionally
16 repaid such amount to his vendee (1) who bore the burden
17 thereof and has not shifted such burden directly or indirectly
18 in any manner whatsoever; (2) who, if he has shifted such
19 burden, has repaid unconditionally such amount to his own
20 vendee, and (3) who is not entitled to receive any
21 reimbursement therefor from any other source than from his
22 vendor, nor to be relieved of such burden in any other manner
23 whatsoever. If it shall appear that an amount of tax has been
24 paid in error hereunder by the purchaser to a serviceman or
25 Certified Service Provider, who retained such tax as
26 reimbursement for his tax liability on the same sale of service

1 under the Service Occupation Tax Act, and who paid such tax as
2 required by the Service Occupation Tax Act, whether such amount
3 be paid through a mistake of fact or an error of law, the
4 procedure for recovering such tax shall be that prescribed in
5 Sections 17, 18, 19 and 20 of the Service Occupation Tax Act.

6 Any credit or refund that is allowed under this Section
7 shall bear interest at the rate and in the manner specified in
8 the Uniform Penalty and Interest Act.

9 Any claim filed hereunder shall be filed upon a form
10 prescribed and furnished by the Department. The claim shall be
11 signed by the claimant (or by the claimant's legal
12 representative if the claimant shall have died or become a
13 person under legal disability), or by a duly authorized agent
14 of the claimant or his or her legal representative.

15 A claim for credit or refund shall be considered to have
16 been filed with the Department on the date upon which it is
17 received by the Department. Upon receipt of any claim for
18 credit or refund filed under this Act, any officer or employee
19 of the Department, authorized in writing by the Director of
20 Revenue to acknowledge receipt of such claims on behalf of the
21 Department, shall execute on behalf of the Department, and
22 shall deliver or mail to the claimant or his duly authorized
23 agent, a written receipt, acknowledging that the claim has been
24 filed with the Department, describing the claim in sufficient
25 detail to identify it and stating the date upon which the claim
26 was received by the Department. Such written receipt shall be

1 prima facie evidence that the Department received the claim
2 described in such receipt and shall be prima facie evidence of
3 the date when such claim was received by the Department. In the
4 absence of such a written receipt, the records of the
5 Department as to when the claim was received by the Department,
6 or as to whether or not the claim was received at all by the
7 Department, shall be deemed to be prima facie correct upon
8 these questions in the event of any dispute between the
9 claimant (or his or her legal representative) and the
10 Department concerning these questions.

11 In case the Department determines that the claimant is
12 entitled to a refund, such refund shall be made only from such
13 appropriation as may be available for that purpose. If it
14 appears unlikely that the amount appropriated would permit
15 everyone having a claim allowed during the period covered by
16 such appropriation to elect to receive a cash refund, the
17 Department, by rule or regulation, shall provide for the
18 payment of refunds in hardship cases and shall define what
19 types of cases qualify as hardship cases.

20 (Source: P.A. 87-205.)

21 Section 25. The Service Occupation Tax Act is amended by
22 changing Sections 2, 3, 3-5, 3-5.5, 3-10, 3-25, 3-40, 6, 8, 9,
23 11, and 12 and by adding Section 3-10.3 as follows:

24 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

1 Sec. 2. "Transfer" means any transfer of the title to
2 property or of the ownership of property whether or not the
3 transferor retains title as security for the payment of amounts
4 due him from the transferee.

5 "Cost Price" means the consideration paid by the serviceman
6 for a purchase valued in money, whether paid in money or
7 otherwise, including cash, credits and services, and shall be
8 determined without any deduction on account of the supplier's
9 cost of the property sold or on account of any other expense
10 incurred by the supplier. When a serviceman contracts out part
11 or all of the services required in his sale of service, it
12 shall be presumed that the cost price to the serviceman of the
13 property transferred to him by his or her subcontractor is
14 equal to 50% of the subcontractor's charges to the serviceman
15 in the absence of proof of the consideration paid by the
16 subcontractor for the purchase of such property.

17 "Department" means the Department of Revenue.

18 "Person" means any natural individual, firm, partnership,
19 association, joint stock company, joint venture, public or
20 private corporation, limited liability company, and any
21 receiver, executor, trustee, guardian or other representative
22 appointed by order of any court.

23 "Sale of Service" means any transaction except:

24 (a) A retail sale of tangible personal property taxable
25 under the Retailers' Occupation Tax Act or under the Use Tax
26 Act.

1 (b) A sale of tangible personal property for the purpose of
2 resale made in compliance with Section 2c of the Retailers'
3 Occupation Tax Act.

4 (c) Except as hereinafter provided, a sale or transfer of
5 tangible personal property as an incident to the rendering of
6 service for or by any governmental body or for or by any
7 corporation, society, association, foundation or institution
8 organized and operated exclusively for charitable, religious
9 or educational purposes or any not-for-profit corporation,
10 society, association, foundation, institution or organization
11 which has no compensated officers or employees and which is
12 organized and operated primarily for the recreation of persons
13 55 years of age or older. A limited liability company may
14 qualify for the exemption under this paragraph only if the
15 limited liability company is organized and operated
16 exclusively for educational purposes.

17 (d) A sale or transfer of tangible personal property as an
18 incident to the rendering of service for interstate carriers
19 for hire for use as rolling stock moving in interstate commerce
20 or lessors under leases of one year or longer, executed or in
21 effect at the time of purchase, to interstate carriers for hire
22 for use as rolling stock moving in interstate commerce, and
23 equipment operated by a telecommunications provider, licensed
24 as a common carrier by the Federal Communications Commission,
25 which is permanently installed in or affixed to aircraft moving
26 in interstate commerce.

1 (d-1) A sale or transfer of tangible personal property as
2 an incident to the rendering of service for owners, lessors or
3 shippers of tangible personal property which is utilized by
4 interstate carriers for hire for use as rolling stock moving in
5 interstate commerce, and equipment operated by a
6 telecommunications provider, licensed as a common carrier by
7 the Federal Communications Commission, which is permanently
8 installed in or affixed to aircraft moving in interstate
9 commerce.

10 (d-1.1) On and after July 1, 2003 and through June 30,
11 2004, a sale or transfer of a motor vehicle of the second
12 division with a gross vehicle weight in excess of 8,000 pounds
13 as an incident to the rendering of service if that motor
14 vehicle is subject to the commercial distribution fee imposed
15 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
16 on July 1, 2004 and through June 30, 2005, the use in this
17 State of motor vehicles of the second division: (i) with a
18 gross vehicle weight rating in excess of 8,000 pounds; (ii)
19 that are subject to the commercial distribution fee imposed
20 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
21 that are primarily used for commercial purposes. Through June
22 30, 2005, this exemption applies to repair and replacement
23 parts added after the initial purchase of such a motor vehicle
24 if that motor vehicle is used in a manner that would qualify
25 for the rolling stock exemption otherwise provided for in this
26 Act. For purposes of this paragraph, "used for commercial

1 purposes" means the transportation of persons or property in
2 furtherance of any commercial or industrial enterprise whether
3 for-hire or not.

4 (d-2) The repairing, reconditioning or remodeling, for a
5 common carrier by rail, of tangible personal property which
6 belongs to such carrier for hire, and as to which such carrier
7 receives the physical possession of the repaired,
8 reconditioned or remodeled item of tangible personal property
9 in Illinois, and which such carrier transports, or shares with
10 another common carrier in the transportation of such property,
11 out of Illinois on a standard uniform bill of lading showing
12 the person who repaired, reconditioned or remodeled the
13 property as the shipper or consignor of such property to a
14 destination outside Illinois, for use outside Illinois.

15 (d-3) A sale or transfer of tangible personal property
16 which is produced by the seller thereof on special order in
17 such a way as to have made the applicable tax the Service
18 Occupation Tax or the Service Use Tax, rather than the
19 Retailers' Occupation Tax or the Use Tax, for an interstate
20 carrier by rail which receives the physical possession of such
21 property in Illinois, and which transports such property, or
22 shares with another common carrier in the transportation of
23 such property, out of Illinois on a standard uniform bill of
24 lading showing the seller of the property as the shipper or
25 consignor of such property to a destination outside Illinois,
26 for use outside Illinois.

1 (d-4) Until January 1, 1997, a sale, by a registered
2 serviceman paying tax under this Act to the Department, of
3 special order printed materials delivered outside Illinois and
4 which are not returned to this State, if delivery is made by
5 the seller or agent of the seller, including an agent who
6 causes the product to be delivered outside Illinois by a common
7 carrier or the U.S. postal service.

8 (e) A sale or transfer of machinery and equipment used
9 primarily in the process of the manufacturing or assembling,
10 either in an existing, an expanded or a new manufacturing
11 facility, of tangible personal property for wholesale or retail
12 sale or lease, whether such sale or lease is made directly by
13 the manufacturer or by some other person, whether the materials
14 used in the process are owned by the manufacturer or some other
15 person, or whether such sale or lease is made apart from or as
16 an incident to the seller's engaging in a service occupation
17 and the applicable tax is a Service Occupation Tax or Service
18 Use Tax, rather than Retailers' Occupation Tax or Use Tax.

19 (f) Until July 1, 2003, the sale or transfer of
20 distillation machinery and equipment, sold as a unit or kit and
21 assembled or installed by the retailer, which machinery and
22 equipment is certified by the user to be used only for the
23 production of ethyl alcohol that will be used for consumption
24 as motor fuel or as a component of motor fuel for the personal
25 use of such user and not subject to sale or resale.

26 (g) At the election of any serviceman not required to be

1 otherwise registered as a retailer under Section 2a of the
2 Retailers' Occupation Tax Act, made for each fiscal year sales
3 of service in which the aggregate annual cost price of tangible
4 personal property transferred as an incident to the sales of
5 service is less than 35% (75% in the case of servicemen
6 transferring prescription drugs or servicemen engaged in
7 graphic arts production) of the aggregate annual total gross
8 receipts from all sales of service. The purchase of such
9 tangible personal property by the serviceman shall be subject
10 to tax under the Retailers' Occupation Tax Act and the Use Tax
11 Act. However, if a primary serviceman who has made the election
12 described in this paragraph subcontracts service work to a
13 secondary serviceman who has also made the election described
14 in this paragraph, the primary serviceman does not incur a Use
15 Tax liability if the secondary serviceman (i) has paid or will
16 pay Use Tax on his or her cost price of any tangible personal
17 property transferred to the primary serviceman and (ii)
18 certifies that fact in writing to the primary serviceman.

19 Tangible personal property transferred incident to the
20 completion of a maintenance agreement is exempt from the tax
21 imposed pursuant to this Act.

22 Beginning on July 1, 2007, prewritten computer software
23 that is modified or enhanced, when that modification or
24 enhancement is designed and developed to the specifications of
25 a specific purchaser, is exempt from the tax imposed under this
26 Act and the transfer of that modified or enhanced prewritten

1 computer software is subject to tax under the Retailers'
2 Occupation Tax Act and the Use Tax Act.

3 Beginning on July 1, 2007, prewritten computer software,
4 whether or not bundled for one non-itemized price with charges
5 for training, telephone assistance, installation, consulting,
6 or other services is exempt from the tax imposed under this Act
7 but is subject to tax under the Retailers' Occupation Tax Act
8 and the Use Tax Act.

9 Exemption (e) also includes machinery and equipment used in
10 the general maintenance or repair of such exempt machinery and
11 equipment or for in-house manufacture of exempt machinery and
12 equipment. For the purposes of exemption (e), each of these
13 terms shall have the following meanings: (1) "manufacturing
14 process" shall mean the production of any article of tangible
15 personal property, whether such article is a finished product
16 or an article for use in the process of manufacturing or
17 assembling a different article of tangible personal property,
18 by procedures commonly regarded as manufacturing, processing,
19 fabricating, or refining which changes some existing material
20 or materials into a material with a different form, use or
21 name. In relation to a recognized integrated business composed
22 of a series of operations which collectively constitute
23 manufacturing, or individually constitute manufacturing
24 operations, the manufacturing process shall be deemed to
25 commence with the first operation or stage of production in the
26 series, and shall not be deemed to end until the completion of

1 the final product in the last operation or stage of production
2 in the series; and further for purposes of exemption (e),
3 photoprocessing is deemed to be a manufacturing process of
4 tangible personal property for wholesale or retail sale; (2)
5 "assembling process" shall mean the production of any article
6 of tangible personal property, whether such article is a
7 finished product or an article for use in the process of
8 manufacturing or assembling a different article of tangible
9 personal property, by the combination of existing materials in
10 a manner commonly regarded as assembling which results in a
11 material of a different form, use or name; (3) "machinery"
12 shall mean major mechanical machines or major components of
13 such machines contributing to a manufacturing or assembling
14 process; and (4) "equipment" shall include any independent
15 device or tool separate from any machinery but essential to an
16 integrated manufacturing or assembly process; including
17 computers used primarily in a manufacturer's computer assisted
18 design, computer assisted manufacturing (CAD/CAM) system; or
19 any subunit or assembly comprising a component of any machinery
20 or auxiliary, adjunct or attachment parts of machinery, such as
21 tools, dies, jigs, fixtures, patterns and molds; or any parts
22 which require periodic replacement in the course of normal
23 operation; but shall not include hand tools. Equipment includes
24 chemicals or chemicals acting as catalysts but only if the
25 chemicals or chemicals acting as catalysts effect a direct and
26 immediate change upon a product being manufactured or assembled

1 for wholesale or retail sale or lease. The purchaser of such
2 machinery and equipment who has an active resale registration
3 number shall furnish such number to the seller at the time of
4 purchase. The purchaser of such machinery and equipment and
5 tools without an active resale registration number shall
6 furnish to the seller a certificate of exemption for each
7 transaction stating facts establishing the exemption for that
8 transaction, which certificate shall be available to the
9 Department for inspection or audit.

10 Except as provided in Section 2d of this Act, the rolling
11 stock exemption applies to rolling stock used by an interstate
12 carrier for hire, even just between points in Illinois, if such
13 rolling stock transports, for hire, persons whose journeys or
14 property whose shipments originate or terminate outside
15 Illinois.

16 Any informal rulings, opinions or letters issued by the
17 Department in response to an inquiry or request for any opinion
18 from any person regarding the coverage and applicability of
19 exemption (e) to specific devices shall be published,
20 maintained as a public record, and made available for public
21 inspection and copying. If the informal ruling, opinion or
22 letter contains trade secrets or other confidential
23 information, where possible the Department shall delete such
24 information prior to publication. Whenever such informal
25 rulings, opinions, or letters contain any policy of general
26 applicability, the Department shall formulate and adopt such

1 policy as a rule in accordance with the provisions of the
2 Illinois Administrative Procedure Act.

3 On and after July 1, 1987, no entity otherwise eligible
4 under exemption (c) of this Section shall make tax free
5 purchases unless it has an active exemption identification
6 number issued by the Department.

7 "Serviceman" means any person who is engaged in the
8 occupation of making sales of service.

9 "Sale at Retail" means "sale at retail" as defined in the
10 Retailers' Occupation Tax Act.

11 "Supplier" means any person who makes sales of tangible
12 personal property to servicemen for the purpose of resale as an
13 incident to a sale of service.

14 Beginning on July 1, 2008, "lease or rental" means the
15 transfer of possession or control of tangible personal property
16 for a fixed or indeterminate term for consideration. A lease or
17 rental may include future options to purchase or extend.

18 (A) Lease or rental does not include:

19 (1) A transfer of possession or control of property
20 under a security agreement or deferred payment plan
21 that requires the transfer of title upon completion of
22 the required payments;

23 (2) A transfer of possession or control of property
24 under an agreement that requires the transfer of title
25 upon the completion of required payments and payment of
26 an option price does not exceed the greater of \$100 or

1 1% of the total required payments; or

2 (3) Providing tangible personal property along
3 with an operator for a fixed or indeterminate period of
4 time. A condition for this exclusion is that the
5 operator is necessary for the equipment to perform as
6 designed. For the purpose of this subsection, an
7 operator must do more than maintain, inspect, or set-up
8 the tangible personal property.

9 (B) Lease or rental does not include agreements
10 covering motor vehicles and trailers where the amount of
11 consideration may be increased or decreased by reference to
12 the amount realized upon sale or disposition of the
13 property as defined in 26 U.S.C. 7701(h)(1).

14 (C) This definition shall be used for purposes of this
15 Act regardless if a transaction is characterized as a lease
16 or rental under generally accepted accounting principles,
17 the Internal Revenue Code, the Uniform Commercial Code, or
18 other provisions of federal, state or local law.

19 Beginning July 1, 2008, "Streamlined Sales and Use Tax
20 Agreement" means the agreement adopted the 12th day of
21 November, 2002, as now or hereafter amended, by states that
22 enacted authority to engage in multistate discussions as
23 described in Section 5 of the Simplified Sales and Use Tax
24 Administration Act.

25 Beginning on July 1, 2008, "agent" means, for purposes of
26 the Streamlined Sales and Use Tax Agreement, a person appointed

1 by a seller to represent that seller before the member states
2 of the Streamlined Sales and Use Tax Agreement.

3 Beginning on July 1, 2008, "Certified Automated System" or
4 "CAS" means software certified under the Streamlined Sales and
5 Use Tax Agreement to calculate the tax imposed by each
6 jurisdiction on a transaction, determine the amount of tax to
7 remit to the appropriate state, and maintain a record of the
8 transaction.

9 Beginning on July 1, 2008, "Certified Service Provider" or
10 "CSP" means an agent certified under the Streamlined Sales and
11 Use Tax Agreement to perform all the seller's sales and use tax
12 functions, other than the seller's obligation to remit tax on
13 its own purchases.

14 Beginning on July 1, 2008, "Model 1 Seller" means a seller
15 that has selected a CSP as its agent to perform all the
16 seller's sales and use tax functions, other than the seller's
17 obligation to remit tax on its own purchases.

18 Beginning on July 1, 2008, "Model 2 Seller" means a seller
19 that has selected a CAS to perform part of its sales and use
20 tax functions, but retains responsibility for remitting the
21 tax.

22 Beginning on July 1, 2008, "Model 3 Seller" means a seller
23 that has sales in at least 5 member states, has total annual
24 sales revenue of at least \$500,000,000, has a proprietary
25 system that calculates the amount of tax due each jurisdiction,
26 and has entered into a performance agreement with the

1 Streamlined Sales and Use Tax Agreement member states that
2 establishes a tax performance standard for the seller. As used
3 in this definition, a seller includes an affiliated group of
4 sellers using the same proprietary system.

5 Beginning on July 1, 2008, "food and food ingredients"
6 means substances, whether in liquid, concentrated, solid,
7 frozen, dried, or dehydrated form, that are sold for ingestion
8 or chewing by humans and are consumed for their taste or
9 nutritional value. "Food and food ingredients" does not include
10 alcoholic beverages, tobacco, or soft drinks.

11 Beginning on July 1, 2008, "prepared food" means:

12 (A) Food sold in a heated state or heated by the
13 seller;

14 (B) Two or more food ingredients mixed or combined by
15 the seller for sale as a single item (except for food that
16 is only cut, repackaged, or pasteurized by the seller, and
17 eggs, fish, meat, poultry, and foods containing these raw
18 animal foods requiring cooking by the consumer as
19 recommended by the Food and Drug Administration in chapter
20 3, part 401.11 of its Food Code so as to prevent food borne
21 illnesses); or

22 (C) Food sold with eating utensils provided by the
23 seller, including plates, knives, forks, spoons, glasses,
24 cups, napkins, or straws. A plate does not include a
25 container or packaging used to transport the food.

26 Subparts A and B of the definition of "prepared food" do

1 not apply to food sold in an unheated state by weight or volume
2 as a single item or bakery items, including bread, rolls, buns,
3 biscuits, bagels, croissants, pastries, donuts, Danish, cakes,
4 tortes, pies, tarts, muffins, bars, cookies, tortillas.

5 Beginning on January 1, 2008, "soft drinks" mean
6 non-alcoholic beverages that contain natural or artificial
7 sweeteners. "Soft drinks" do not include beverages that contain
8 milk or milk products, soy, rice or similar milk substitutes,
9 or greater than 50% of vegetable or fruit juice by volume.

10 Beginning on July 1, 2008, "tangible personal property"
11 means personal property that can be seen, weighed, measured,
12 felt, or touched, or that is in any other manner perceptible to
13 the senses. "Tangible personal property" includes prewritten
14 computer software.

15 Beginning January 1, 2008 and through June 30, 2008, the
16 terms "medicine" and "drug" do not include items that qualify
17 as grooming and hygiene products.

18 Beginning July 1, 2008, "drug" means a compound, substance,
19 or preparation for human use, including insulin, and any
20 component of a compound, substance or preparation for human
21 use, other than "food and food ingredients", "dietary
22 supplements", "grooming and hygiene products", or "alcoholic
23 beverages":

24 (A) Recognized in the official United States
25 Pharmacopoeia, official Homeopathic Pharmacopoeia of the
26 United States, or official National Formulary, and

1 supplement to any of them; or

2 (B) Intended for use in the diagnosis, cure,
3 mitigation, treatment, or prevention of disease; or

4 (C) Intended to affect the structure or any function of
5 the body.

6 Beginning July 1, 2008, "prescription" means an order,
7 formula or recipe issued in any form of oral, written,
8 electronic, or other means of transmission by physician
9 licensed to practice medicine in all its branches under the
10 Medical Practice Act of 1987, a dentist licensed under the
11 Illinois Dental Practice Act, a podiatrist licensed under the
12 Podiatrist Medical Practice Act of 1987, a physician assistant
13 licensed under the Physician Assistant Practice Act of 1987, or
14 an advanced practice nurse with a written collaborative
15 agreement under Section 15-15 and prescriptive authority in
16 accordance with Section 15-20 of the Nursing and Advanced
17 Practice Nursing Act.

18 Beginning July 1, 2008, "Over-the-counter-drug" means a
19 drug for human use that contains a label that identifies the
20 product as a drug as required by 21 C.F.R. § 201.66. The
21 "over-the-counter-drug" label includes:

22 A "Drug Facts" panel; or

23 A statement of the "active ingredient(s)" with a list
24 of those ingredients contained in the compound, substance
25 or preparation.

26 Beginning on January 1, 2008 and through June 30, 2008, the

1 terms "medicine" and "drugs" do not include items that qualify
2 as grooming and hygiene products, unless those products are
3 available by prescription only.

4 Beginning January 1, 2008, "grooming and hygiene products"
5 are soaps and cleaning solutions, shampoo, toothpaste,
6 mouthwash, antiperspirants, and sun tan lotions and screens,
7 regardless of whether the items meet the definition of
8 "over-the-counter-drugs".

9 Beginning July 1, 2008, "prosthetic device" means a
10 replacement, corrective or supportive device including repair
11 and replacement parts for same worn on or in the body to:

12 (A) Artificially replace a missing portion of the body;

13 (B) Prevent or correct physical deformity or
14 malfunction; or

15 (C) Support a weak or deformed portion of the body.

16 Beginning July 1, 2008, "dietary supplement" means any
17 product, other than "tobacco," intended to supplement the diet
18 that:

19 (A) Contains one or more of the following dietary
20 ingredients:

21 (1) A vitamin;

22 (2) A mineral;

23 (3) An herb or other botanical;

24 (4) An amino acid;

25 (5) A dietary substance for use by humans to
26 supplement the diet by increasing the total dietary

1 intake; or

2 (6) A concentrate, metabolite, constituent,
3 extract, or combination of any ingredient described in
4 items (1) through (5) of this subparagraph (A); and

5 (B) Is intended for ingestion in tablet, capsule,
6 powder, softgel, gelcap, or liquid form, or if not intended
7 for ingestion in such a form, is not represented as
8 conventional food and is not represented for use as a sole
9 item of a meal or of the diet; and

10 (C) Is required to be labeled as a dietary supplement,
11 identifiable by the "Supplemental Facts" box found on the
12 label and as required pursuant to 21 C.F.R Section 101.36.

13 Beginning July 1, 2008, "alcoholic beverages" means
14 beverages that are suitable for human consumption and contain
15 one-half of one percent or more of alcohol by volume.

16 Beginning July 1, 2008, "tobacco" means cigarettes,
17 cigars, chewing or pipe tobacco, or any other item that
18 contains tobacco.

19 Beginning July 1, 2008, "direct mail" means printed
20 material delivered or distributed by United States mail or
21 other delivery service to a mass audience or to addressees on a
22 mailing list provided by the purchaser or at the direction of
23 the purchaser when the cost of the items are not billed
24 directly to the recipients. "Direct mail" includes tangible
25 personal property supplied directly or indirectly by the
26 purchaser to the direct mail seller for inclusion in the

1 package containing the printed material. "Direct mail" does not
2 include multiple items of printed material delivered to a
3 single address.

4 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
5 eff. 6-20-03; 93-1033, eff. 9-3-04.)

6 (35 ILCS 115/3) (from Ch. 120, par. 439.103)

7 Sec. 3. Tax imposed.

8 (a) A tax is imposed upon all persons engaged in the
9 business of making sales of service (referred to as
10 "servicemen") on all tangible personal property transferred as
11 an incident of a sale of service, including computer software,
12 and including photographs, negatives, and positives that are
13 the product of photoprocessing, but not including products of
14 photoprocessing produced for use in motion pictures for public
15 commercial exhibition. Beginning January 1, 2001, prepaid
16 telephone calling arrangements shall be considered tangible
17 personal property subject to the tax imposed under this Act
18 regardless of the form in which those arrangements may be
19 embodied, transmitted, or fixed by any method now known or
20 hereafter developed.

21 Beginning on July 1, 2007, computer software is no longer
22 taxable under this Act to the extent that and for as long as it
23 is taxable under the Use Tax Act and the Retailers' Occupation
24 Tax Act as provided in the provisions concerning "sale of
25 service" in Section 2 of this Act.

1 (b) Notwithstanding any other provision of this Act, on or
2 after July 1, 2008, the location of where a sale of service
3 takes place shall be determined under the following rules:

4 (1) When the product is received by the purchaser at a
5 business location of the seller, the sale is sourced to
6 that business location.

7 (2) When the product is not received by the purchaser
8 at a business location of the seller, the sale is sourced
9 to the location where receipt by the purchaser (or the
10 purchaser's donee, designated as such by the purchaser)
11 occurs, including the location indicated by instructions
12 for delivery to the purchaser (or donee), known to the
13 seller.

14 (3) When subdivisions (b)(1) and (b)(2) do not apply,
15 the sale is sourced to the location indicated by an address
16 for the purchaser that is available from the business
17 records of the seller that are maintained in the ordinary
18 course of the seller's business when use of this address
19 does not constitute bad faith.

20 (4) When subdivisions (b)(1), (b)(2), and (b)(3) do not
21 apply, the sale is sourced to the location indicated by an
22 address for the purchaser obtained during the consummation
23 of the sale, including the address of a purchaser's payment
24 instrument, if no other address is available, when use of
25 this address does not constitute bad faith.

26 (5) When none of the previous rules of subdivisions

1 (b) (1), (b) (2), (b) (3), or (b) (4) apply, including the
2 circumstance in which the seller is without sufficient
3 information to apply the previous rules, then the location
4 will be determined by the address from which tangible
5 personal property was shipped or the canned computer
6 software was delivered electronically (was first available
7 for transmission by the seller).

8 For purposes of this subsection (b), the terms "receive"
9 and "receipt" mean taking possession of tangible personal
10 property. The terms "receive" and "receipt" do not include
11 possession by a shipping company on behalf of the purchaser.
12 The sourcing rules provided in this subsection (b) of this
13 Section do not apply to the sale of motor vehicles, watercraft,
14 aircraft, and trailers that are required to be registered or
15 titled with an agency of this State.

16 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

17 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

18 Sec. 3-5. Exemptions. The following tangible personal
19 property is exempt from the tax imposed by this Act:

20 (1) Personal property sold by a corporation, society,
21 association, foundation, institution, or organization, other
22 than a limited liability company, that is organized and
23 operated as a not-for-profit service enterprise for the benefit
24 of persons 65 years of age or older if the personal property
25 was not purchased by the enterprise for the purpose of resale

1 by the enterprise.

2 (2) Personal property purchased by a not-for-profit
3 Illinois county fair association for use in conducting,
4 operating, or promoting the county fair.

5 (3) Personal property purchased by any not-for-profit arts
6 or cultural organization that establishes, by proof required by
7 the Department by rule, that it has received an exemption under
8 Section 501(c)(3) of the Internal Revenue Code and that is
9 organized and operated primarily for the presentation or
10 support of arts or cultural programming, activities, or
11 services. These organizations include, but are not limited to,
12 music and dramatic arts organizations such as symphony
13 orchestras and theatrical groups, arts and cultural service
14 organizations, local arts councils, visual arts organizations,
15 and media arts organizations. On and after the effective date
16 of this amendatory Act of the 92nd General Assembly, however,
17 an entity otherwise eligible for this exemption shall not make
18 tax-free purchases unless it has an active identification
19 number issued by the Department.

20 (4) Legal tender, currency, medallions, or gold or silver
21 coinage issued by the State of Illinois, the government of the
22 United States of America, or the government of any foreign
23 country, and bullion.

24 (5) Until July 1, 2003 and beginning again on September 1,
25 2004, graphic arts machinery and equipment, including repair
26 and replacement parts, both new and used, and including that

1 manufactured on special order or purchased for lease, certified
2 by the purchaser to be used primarily for graphic arts
3 production. Equipment includes chemicals or chemicals acting
4 as catalysts but only if the chemicals or chemicals acting as
5 catalysts effect a direct and immediate change upon a graphic
6 arts product.

7 (6) Personal property sold by a teacher-sponsored student
8 organization affiliated with an elementary or secondary school
9 located in Illinois.

10 (7) Farm machinery and equipment, both new and used,
11 including that manufactured on special order, certified by the
12 purchaser to be used primarily for production agriculture or
13 State or federal agricultural programs, including individual
14 replacement parts for the machinery and equipment, including
15 machinery and equipment purchased for lease, and including
16 implements of husbandry defined in Section 1-130 of the
17 Illinois Vehicle Code, farm machinery and agricultural
18 chemical and fertilizer spreaders, and nurse wagons required to
19 be registered under Section 3-809 of the Illinois Vehicle Code,
20 but excluding other motor vehicles required to be registered
21 under the Illinois Vehicle Code. Horticultural polyhouses or
22 hoop houses used for propagating, growing, or overwintering
23 plants shall be considered farm machinery and equipment under
24 this item (7). Agricultural chemical tender tanks and dry boxes
25 shall include units sold separately from a motor vehicle
26 required to be licensed and units sold mounted on a motor

1 vehicle required to be licensed if the selling price of the
2 tender is separately stated.

3 Farm machinery and equipment shall include precision
4 farming equipment that is installed or purchased to be
5 installed on farm machinery and equipment including, but not
6 limited to, tractors, harvesters, sprayers, planters, seeders,
7 or spreaders. Precision farming equipment includes, but is not
8 limited to, soil testing sensors, computers, monitors,
9 software, global positioning and mapping systems, and other
10 such equipment.

11 Farm machinery and equipment also includes computers,
12 sensors, software, and related equipment used primarily in the
13 computer-assisted operation of production agriculture
14 facilities, equipment, and activities such as, but not limited
15 to, the collection, monitoring, and correlation of animal and
16 crop data for the purpose of formulating animal diets and
17 agricultural chemicals. This item (7) is exempt from the
18 provisions of Section 3-55.

19 (8) Fuel and petroleum products sold to or used by an air
20 common carrier, certified by the carrier to be used for
21 consumption, shipment, or storage in the conduct of its
22 business as an air common carrier, for a flight destined for or
23 returning from a location or locations outside the United
24 States without regard to previous or subsequent domestic
25 stopovers.

26 (9) Proceeds of mandatory service charges separately

1 stated on customers' bills for the purchase and consumption of
2 food and beverages, to the extent that the proceeds of the
3 service charge are in fact turned over as tips or as a
4 substitute for tips to the employees who participate directly
5 in preparing, serving, hosting or cleaning up the food or
6 beverage function with respect to which the service charge is
7 imposed.

8 (10) Until July 1, 2003, oil field exploration, drilling,
9 and production equipment, including (i) rigs and parts of rigs,
10 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
11 tubular goods, including casing and drill strings, (iii) pumps
12 and pump-jack units, (iv) storage tanks and flow lines, (v) any
13 individual replacement part for oil field exploration,
14 drilling, and production equipment, and (vi) machinery and
15 equipment purchased for lease; but excluding motor vehicles
16 required to be registered under the Illinois Vehicle Code.

17 (11) Photoprocessing machinery and equipment, including
18 repair and replacement parts, both new and used, including that
19 manufactured on special order, certified by the purchaser to be
20 used primarily for photoprocessing, and including
21 photoprocessing machinery and equipment purchased for lease.

22 (12) Until July 1, 2003, coal exploration, mining,
23 offhighway hauling, processing, maintenance, and reclamation
24 equipment, including replacement parts and equipment, and
25 including equipment purchased for lease, but excluding motor
26 vehicles required to be registered under the Illinois Vehicle

1 Code.

2 (13) (A) Through June 30, 2008 ~~Beginning January 1, 1992~~
3 ~~and through June 30, 2011,~~ food for human consumption that is
4 to be consumed off the premises where it is sold (other than
5 alcoholic beverages, soft drinks and food that has been
6 prepared for immediate consumption) and prescription and
7 non-prescription medicines, drugs, medical appliances, and
8 insulin, urine testing materials, syringes, and needles used by
9 diabetics, for human use, when purchased for use by a person
10 receiving medical assistance under Article 5 of the Illinois
11 Public Aid Code who resides in a licensed long-term care
12 facility, as defined in the Nursing Home Care Act.

13 (B) Beginning July 1, 2008, food and food ingredients
14 (other than prepared food), drugs for human use available by
15 prescription only, and over-the-counter-drugs for human use
16 (other than grooming and hygiene products) when purchased for
17 use by a person receiving medical assistance under Article 5 of
18 the Illinois Public Aid Code who resides in a licensed
19 long-term care facility, as defined in the Nursing Home Care
20 Act. This subdivision (B) is exempt from the provisions of
21 Section 3-55.

22 (14) Semen used for artificial insemination of livestock
23 for direct agricultural production.

24 (15) Horses, or interests in horses, registered with and
25 meeting the requirements of any of the Arabian Horse Club
26 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or
2 Jockey Club, as appropriate, used for purposes of breeding or
3 racing for prizes.

4 (16) Computers and communications equipment utilized for
5 any hospital purpose and equipment used in the diagnosis,
6 analysis, or treatment of hospital patients sold to a lessor
7 who leases the equipment, under a lease of one year or longer
8 executed or in effect at the time of the purchase, to a
9 hospital that has been issued an active tax exemption
10 identification number by the Department under Section 1g of the
11 Retailers' Occupation Tax Act.

12 (17) Personal property sold to a lessor who leases the
13 property, under a lease of one year or longer executed or in
14 effect at the time of the purchase, to a governmental body that
15 has been issued an active tax exemption identification number
16 by the Department under Section 1g of the Retailers' Occupation
17 Tax Act.

18 (18) Beginning with taxable years ending on or after
19 December 31, 1995 and ending with taxable years ending on or
20 before December 31, 2004, personal property that is donated for
21 disaster relief to be used in a State or federally declared
22 disaster area in Illinois or bordering Illinois by a
23 manufacturer or retailer that is registered in this State to a
24 corporation, society, association, foundation, or institution
25 that has been issued a sales tax exemption identification
26 number by the Department that assists victims of the disaster

1 who reside within the declared disaster area.

2 (19) Beginning with taxable years ending on or after
3 December 31, 1995 and ending with taxable years ending on or
4 before December 31, 2004, personal property that is used in the
5 performance of infrastructure repairs in this State, including
6 but not limited to municipal roads and streets, access roads,
7 bridges, sidewalks, waste disposal systems, water and sewer
8 line extensions, water distribution and purification
9 facilities, storm water drainage and retention facilities, and
10 sewage treatment facilities, resulting from a State or
11 federally declared disaster in Illinois or bordering Illinois
12 when such repairs are initiated on facilities located in the
13 declared disaster area within 6 months after the disaster.

14 (20) Beginning July 1, 1999, game or game birds sold at a
15 "game breeding and hunting preserve area" or an "exotic game
16 hunting area" as those terms are used in the Wildlife Code or
17 at a hunting enclosure approved through rules adopted by the
18 Department of Natural Resources. This paragraph is exempt from
19 the provisions of Section 3-55.

20 (21) A motor vehicle, as that term is defined in Section
21 1-146 of the Illinois Vehicle Code, that is donated to a
22 corporation, limited liability company, society, association,
23 foundation, or institution that is determined by the Department
24 to be organized and operated exclusively for educational
25 purposes. For purposes of this exemption, "a corporation,
26 limited liability company, society, association, foundation,

1 or institution organized and operated exclusively for
2 educational purposes" means all tax-supported public schools,
3 private schools that offer systematic instruction in useful
4 branches of learning by methods common to public schools and
5 that compare favorably in their scope and intensity with the
6 course of study presented in tax-supported schools, and
7 vocational or technical schools or institutes organized and
8 operated exclusively to provide a course of study of not less
9 than 6 weeks duration and designed to prepare individuals to
10 follow a trade or to pursue a manual, technical, mechanical,
11 industrial, business, or commercial occupation.

12 (22) Beginning January 1, 2000, personal property,
13 including food, purchased through fundraising events for the
14 benefit of a public or private elementary or secondary school,
15 a group of those schools, or one or more school districts if
16 the events are sponsored by an entity recognized by the school
17 district that consists primarily of volunteers and includes
18 parents and teachers of the school children. This paragraph
19 does not apply to fundraising events (i) for the benefit of
20 private home instruction or (ii) for which the fundraising
21 entity purchases the personal property sold at the events from
22 another individual or entity that sold the property for the
23 purpose of resale by the fundraising entity and that profits
24 from the sale to the fundraising entity. This paragraph is
25 exempt from the provisions of Section 3-55.

26 (23) Beginning January 1, 2000 and through December 31,

1 2001, new or used automatic vending machines that prepare and
2 serve hot food and beverages, including coffee, soup, and other
3 items, and replacement parts for these machines. Beginning
4 January 1, 2002 and through June 30, 2003, machines and parts
5 for machines used in commercial, coin-operated amusement and
6 vending business if a use or occupation tax is paid on the
7 gross receipts derived from the use of the commercial,
8 coin-operated amusement and vending machines. This paragraph
9 is exempt from the provisions of Section 3-55.

10 (24) Beginning on the effective date of this amendatory Act
11 of the 92nd General Assembly, computers and communications
12 equipment utilized for any hospital purpose and equipment used
13 in the diagnosis, analysis, or treatment of hospital patients
14 sold to a lessor who leases the equipment, under a lease of one
15 year or longer executed or in effect at the time of the
16 purchase, to a hospital that has been issued an active tax
17 exemption identification number by the Department under
18 Section 1g of the Retailers' Occupation Tax Act. This paragraph
19 is exempt from the provisions of Section 3-55.

20 (25) Beginning on the effective date of this amendatory Act
21 of the 92nd General Assembly, personal property sold to a
22 lessor who leases the property, under a lease of one year or
23 longer executed or in effect at the time of the purchase, to a
24 governmental body that has been issued an active tax exemption
25 identification number by the Department under Section 1g of the
26 Retailers' Occupation Tax Act. This paragraph is exempt from

1 the provisions of Section 3-55.

2 (26) Beginning on January 1, 2002 and through June 30,
3 2011, tangible personal property purchased from an Illinois
4 retailer by a taxpayer engaged in centralized purchasing
5 activities in Illinois who will, upon receipt of the property
6 in Illinois, temporarily store the property in Illinois (i) for
7 the purpose of subsequently transporting it outside this State
8 for use or consumption thereafter solely outside this State or
9 (ii) for the purpose of being processed, fabricated, or
10 manufactured into, attached to, or incorporated into other
11 tangible personal property to be transported outside this State
12 and thereafter used or consumed solely outside this State. The
13 Director of Revenue shall, pursuant to rules adopted in
14 accordance with the Illinois Administrative Procedure Act,
15 issue a permit to any taxpayer in good standing with the
16 Department who is eligible for the exemption under this
17 paragraph (26). The permit issued under this paragraph (26)
18 shall authorize the holder, to the extent and in the manner
19 specified in the rules adopted under this Act, to purchase
20 tangible personal property from a retailer exempt from the
21 taxes imposed by this Act. Taxpayers shall maintain all
22 necessary books and records to substantiate the use and
23 consumption of all such tangible personal property outside of
24 the State of Illinois.

25 (27) On and after July 1, 2008, a "prosthetic device" as
26 defined in this Act. This paragraph is exempt from the

1 provisions of Section 3-55.

2 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
3 94-1002, eff. 7-3-06.)

4 (35 ILCS 115/3-5.5)

5 Sec. 3-5.5. Food and drugs sold by not-for-profit
6 organizations; exemption.

7 (a) For service transactions occurring through June 30,
8 2008, the ~~The~~ Department shall not collect the 1% tax imposed
9 on food for human consumption that is to be consumed off the
10 premises where it is sold (other than alcoholic beverages, soft
11 drinks, and food that has been prepared for immediate
12 consumption) and prescription and nonprescription medicines,
13 drugs, medical appliances, and insulin, urine testing
14 materials, syringes, and needles used by diabetics, for human
15 use from any not-for-profit organization, that sells food in a
16 food distribution program at a price below the retail cost of
17 the food to purchasers who, as a condition of participation in
18 the program, are required to perform community service, located
19 in a county or municipality that notifies the Department, in
20 writing, that the county or municipality does not want the tax
21 to be collected from any of such organizations located in the
22 county or municipality.

23 (b) For service transaction occurring on and after July 1,
24 2008, the Department shall not collect the 1% tax imposed on
25 food and food ingredients (other than prepared food), drugs for

1 human use available by prescription only, and
2 over-the-counter-drugs for human use (other than grooming and
3 hygiene products) from any not-for-profit organization, that
4 sells food in a food distribution program at a price below the
5 retail cost of the food to purchasers who, as a condition of
6 participation in the program, are required to perform community
7 service, located in a county or municipality that notifies the
8 Department, in writing, that the county or municipality does
9 not want the tax to be collected from any of such organizations
10 located in the county or municipality.

11 (Source: P.A. 88-374.)

12 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

13 Sec. 3-10. Rate of tax. Unless otherwise provided in this
14 Section, the tax imposed by this Act is at the rate of 6.25% of
15 the "selling price", as defined in Section 2 of the Service Use
16 Tax Act, of the tangible personal property. For the purpose of
17 computing this tax, in no event shall the "selling price" be
18 less than the cost price to the serviceman of the tangible
19 personal property transferred. The selling price of each item
20 of tangible personal property transferred as an incident of a
21 sale of service may be shown as a distinct and separate item on
22 the serviceman's billing to the service customer. If the
23 selling price is not so shown, the selling price of the
24 tangible personal property is deemed to be 50% of the
25 serviceman's entire billing to the service customer. When,

1 however, a serviceman contracts to design, develop, and produce
2 special order machinery or equipment, the tax imposed by this
3 Act shall be based on the serviceman's cost price of the
4 tangible personal property transferred incident to the
5 completion of the contract.

6 Beginning on July 1, 2000 and through December 31, 2000,
7 with respect to motor fuel, as defined in Section 1.1 of the
8 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
9 the Use Tax Act, the tax is imposed at the rate of 1.25%.

10 With respect to gasohol, as defined in the Use Tax Act, the
11 tax imposed by this Act shall apply to (i) 70% of the cost
12 price of property transferred as an incident to the sale of
13 service on or after January 1, 1990, and before July 1, 2003,
14 (ii) 80% of the selling price of property transferred as an
15 incident to the sale of service on or after July 1, 2003 and on
16 or before December 31, 2013, and (iii) 100% of the cost price
17 thereafter. If, at any time, however, the tax under this Act on
18 sales of gasohol, as defined in the Use Tax Act, is imposed at
19 the rate of 1.25%, then the tax imposed by this Act applies to
20 100% of the proceeds of sales of gasohol made during that time.

21 With respect to majority blended ethanol fuel, as defined
22 in the Use Tax Act, the tax imposed by this Act does not apply
23 to the selling price of property transferred as an incident to
24 the sale of service on or after July 1, 2003 and on or before
25 December 31, 2013 but applies to 100% of the selling price
26 thereafter.

1 With respect to biodiesel blends, as defined in the Use Tax
2 Act, with no less than 1% and no more than 10% biodiesel, the
3 tax imposed by this Act applies to (i) 80% of the selling price
4 of property transferred as an incident to the sale of service
5 on or after July 1, 2003 and on or before December 31, 2013 and
6 (ii) 100% of the proceeds of the selling price thereafter. If,
7 at any time, however, the tax under this Act on sales of
8 biodiesel blends, as defined in the Use Tax Act, with no less
9 than 1% and no more than 10% biodiesel is imposed at the rate
10 of 1.25%, then the tax imposed by this Act applies to 100% of
11 the proceeds of sales of biodiesel blends with no less than 1%
12 and no more than 10% biodiesel made during that time.

13 With respect to 100% biodiesel, as defined in the Use Tax
14 Act, and biodiesel blends, as defined in the Use Tax Act, with
15 more than 10% but no more than 99% biodiesel material, the tax
16 imposed by this Act does not apply to the proceeds of the
17 selling price of property transferred as an incident to the
18 sale of service on or after July 1, 2003 and on or before
19 December 31, 2013 but applies to 100% of the selling price
20 thereafter.

21 At the election of any registered serviceman made for each
22 fiscal year, sales of service in which the aggregate annual
23 cost price of tangible personal property transferred as an
24 incident to the sales of service is less than 35%, or 75% in
25 the case of servicemen transferring prescription drugs or
26 servicemen engaged in graphic arts production, of the aggregate

1 annual total gross receipts from all sales of service, the tax
2 imposed by this Act shall be based on the serviceman's cost
3 price of the tangible personal property transferred incident to
4 the sale of those services.

5 Except as otherwise provided in this paragraph, the
6 provisions of this paragraph apply through June 30, 2008. The
7 tax shall be imposed at the rate of 1% on food prepared for
8 immediate consumption and transferred incident to a sale of
9 service subject to this Act or the Service Occupation Tax Act
10 by an entity licensed under the Hospital Licensing Act, the
11 Nursing Home Care Act, or the Child Care Act of 1969. The tax
12 shall also be imposed at the rate of 1% on food for human
13 consumption that is to be consumed off the premises where it is
14 sold (other than alcoholic beverages, soft drinks, and food
15 that has been prepared for immediate consumption and is not
16 otherwise included in this paragraph) and prescription
17 medicines, and nonprescription medicines (other than,
18 beginning on July 1, 2008, grooming and hygiene products),
19 drugs (other than, beginning on July 1, 2008, grooming and
20 hygiene products), medical appliances, modifications to a
21 motor vehicle for the purpose of rendering it usable by a
22 disabled person, and insulin, urine testing materials,
23 syringes, and needles used by diabetics, for human use. For the
24 purposes of this Section, through December 31, 2007, the term
25 "soft drinks" means any complete, finished, ready-to-use,
26 non-alcoholic drink, whether carbonated or not, including but

1 not limited to soda water, cola, fruit juice, vegetable juice,
2 carbonated water, and all other preparations commonly known as
3 soft drinks of whatever kind or description that are contained
4 in any closed or sealed can, carton, or container, regardless
5 of size. Through December 31, 2007 "soft drinks" ~~"Soft drinks"~~
6 does not include coffee, tea, non-carbonated water, infant
7 formula, milk or milk products as defined in the Grade A
8 Pasteurized Milk and Milk Products Act, or drinks containing
9 50% or more natural fruit or vegetable juice.

10 On and after July 1, 2007, the tax shall be imposed at the
11 rate of 1% on food prepared and transferred incident to a sale
12 of service subject to this Act or the Service Use Tax Act by an
13 entity licensed under the Hospital Licensing Act, the Nursing
14 Home Care Act, or the Child Care Act of 1969. The tax shall
15 also be imposed at the rate of 1% on food and food ingredients
16 (other than prepared food), drugs for human use available by
17 prescription only, and over-the-counter-drugs for human use
18 (other than grooming and hygiene products).

19 Through June 30, 2008, notwithstanding ~~Notwithstanding~~ any
20 other provisions of this Act, "food for human consumption that
21 is to be consumed off the premises where it is sold" includes
22 all food sold through a vending machine, except soft drinks and
23 food products that are dispensed hot from a vending machine,
24 regardless of the location of the vending machine.

25 On and after July 1, 2008, notwithstanding any other
26 provisions of this Act, "food and food ingredients" includes

1 all food sold through a vending machine, except soft drinks and
2 food products that are dispensed hot from a vending machine,
3 regardless of the location of the vending machine.

4 (Source: P.A. 93-17, eff. 6-11-03.)

5 (35 ILCS 115/3-10.3 new)

6 Sec. 3-10.3. Electronic database; relief for incorrect
7 data in database. Upon the State of Illinois becoming a member
8 of the Streamlined Sales and Use Tax Agreement and in
9 conformance with the required effective dates set by the
10 governing board of the Streamlined Sales and Use Tax Agreement
11 for the availability and use of the database, the Department
12 shall create and maintain an electronic database of all State
13 and local Retailers' Occupation Tax and Use Tax rates for all
14 jurisdictions levying such taxes in this State. The database
15 shall be provided and maintained in the manner required by
16 Section 305 of the Streamlined Sales and Use Tax Agreement.
17 Taxpayers and Certified Service Providers are relieved from
18 liability to the State and local jurisdictions for paying tax
19 under this Act or any local occupation tax resulting from that
20 taxpayer or Certified Service Provider relying on erroneous
21 data contained in the database (other than an address based
22 database as described in subsection (G) of Section 305 of the
23 Streamlined Sales and Use Tax Agreement or pursuant to the
24 federal Mobile Telecommunications Sourcing Act). Such relief
25 from liability shall not apply when the purchased product is

1 received by the purchaser at the business location of the
2 seller.

3 (35 ILCS 115/3-25) (from Ch. 120, par. 439.103-25)

4 Sec. 3-25. Computer software; prewritten computer
5 software; upgrades.

6 (a) Before January 1, 2008, for ~~For~~ the purposes of this
7 Act, "computer software" means a set of statements, data, or
8 instructions to be used directly or indirectly in a computer in
9 order to bring about a certain result in any form in which
10 those statements, data, or instructions may be embodied,
11 transmitted, or fixed, by any method now known or hereafter
12 developed, regardless of whether the statements, data, or
13 instructions are capable of being perceived by or communicated
14 to humans, and includes prewritten or canned software that is
15 held for repeated sale or lease, and all associated
16 documentation and materials, if any, whether contained on
17 magnetic tapes, discs, cards, or other devices or media, but
18 does not include software that is adapted to specific
19 individualized requirements of a purchaser, custom-made and
20 modified software designed for a particular or limited use by a
21 purchaser, or software used to operate exempt machinery and
22 equipment used in the process of manufacturing or assembling
23 tangible personal property for wholesale or retail sale or
24 lease.

25 For the purposes of this Act, computer software shall be

1 considered to be tangible personal property.

2 (b) On and after January 1, 2008, "computer software" has
3 the meaning set forth in Section 2-25 of the Retailers'
4 Occupation Tax Act.

5 (c) On and after January 1, 2008, "prewritten computer
6 software" has the meaning set forth in Section 2-25 of the
7 Retailers' Occupation Tax Act.

8 (Source: P.A. 91-51, eff. 6-30-99.)

9 (35 ILCS 115/3-40) (from Ch. 120, par. 439.103-40)

10 Sec. 3-40. Collection. The tax imposed by this Act shall be
11 paid to the Department by any serviceman transferring tangible
12 personal property as an incident to a sale of service taxable
13 under this Act. If a serviceman has paid Service Occupation Tax
14 to his or her supplier based upon the cost price of tangible
15 personal property before January 1, 1990, or in error on or
16 after January 1, 1990, the serviceman, without filing any
17 formal claims with the Department, shall be allowed to take
18 credit against his or her Service Occupation Tax liability
19 based upon the selling price of that property transferred in
20 the course of providing service to the extent of the amount of
21 the tax so paid.

22 If any serviceman collects an amount (however designated)
23 that purports to reimburse the serviceman for Service
24 Occupation Tax liability measured by receipts or selling prices
25 that are not subject to Service Occupation Tax, or if any

1 serviceman, in collecting an amount (however designated) that
2 purports to reimburse the serviceman for Service Occupation Tax
3 liability measured by receipts or selling prices that are
4 subject to tax under this Act, collects more from the purchaser
5 than the serviceman's Service Occupation Tax liability in the
6 transaction, the purchaser shall have a legal right to claim a
7 refund of that amount from the serviceman. If, however, that
8 amount is not refunded to the purchaser by a serviceman for any
9 reason, the supplier or serviceman is liable to pay that amount
10 to the Department. This paragraph does not apply to an amount
11 collected by the supplier as Service Occupation Tax, nor to an
12 amount collected by the serviceman as reimbursement for the
13 serviceman's Service Occupation Tax liability on receipts or
14 cost prices that are subject to tax under this Act, as long as
15 the collection is made in compliance with this Act and
16 applicable ~~the tax collection brackets prescribed by the~~
17 Department ~~in its~~ rules and regulations.

18 (Source: P.A. 91-51, eff. 6-30-99.)

19 (35 ILCS 115/6) (from Ch. 120, par. 439.106)

20 Sec. 6. Any supplier maintaining a place of business in
21 this State, if required to register under the "Retailers'
22 Occupation Tax Act", the "Use Tax Act" or the "Service Use Tax
23 Act", need not obtain an additional Certificate of Registration
24 under this Act, but shall be deemed to be sufficiently
25 registered by virtue of his being registered under the

1 "Retailers' Occupation Tax Act", the "Use Tax Act" or the
2 "Service Use Tax Act". Every supplier maintaining a place of
3 business in this State, if not required to register under the
4 "Retailers' Occupation Tax Act", the "Use Tax Act" or the
5 "Service Use Tax Act", shall apply to the Department (upon a
6 form prescribed and furnished by the Department) for a
7 Certificate of Registration under this Act. Every serviceman
8 maintaining a place of business in this State, if not required
9 to register under the "Retailers' Occupation Tax Act", the "Use
10 Tax Act" or the "Service Use Tax Act", and desiring to or
11 required to pay the tax imposed by this Act directly to the
12 Department, shall, except as provided in Section 10 of this
13 Act, apply to the Department (upon a form prescribed and
14 furnished by the Department) for a Certificate of Registration
15 under this Act. In completing such application, the applicant
16 shall furnish such information as the Department may reasonably
17 require. Upon approval of an application for Certificate of
18 Registration, the Department shall issue, without charge, a
19 Certificate of Registration to the applicant. Such certificate
20 of Registration shall be displayed at the address which the
21 applicant states in his application to be the principal place
22 of business or location from which he will act as a supplier or
23 serviceman in this State. If the applicant will act as a
24 supplier or serviceman in this State from other places of
25 business or locations, he shall list the addresses of such
26 additional places of business or locations in his application

1 for Certificate of Registration, and the Department shall issue
2 a Sub-Certificate of Registration to the applicant for each
3 such additional place of business or location. Each
4 Sub-Certificate of Registration shall be conspicuously
5 displayed at the place for which it is issued. Such
6 Sub-Certificate of Registration shall bear the same
7 registration number as that appearing upon the Certificate of
8 Registration to which such Sub-Certificate relates. Where a
9 supplier or serviceman operates more than one place of business
10 which is subject to registration under this Section and such
11 businesses are substantially different in character or are
12 engaged in under different trade names or are engaged in under
13 other substantially dissimilar circumstances (so that it is
14 more practicable, from an accounting, auditing or bookkeeping
15 standpoint, for such businesses to be separately registered),
16 the Department may require or permit such person to apply for
17 and obtain a separate Certificate of Registration for each such
18 business or for any of such businesses instead of registering
19 such person, as to all such businesses, under a single
20 Certificate of Registration supplemented by related
21 Sub-Certificates of Registration. Such Certificate of
22 Registration shall not be issued to any person who is in
23 default to the State of Illinois for moneys due under this Act.

24 The Department may, in its discretion, upon application,
25 authorize the collection of the tax herein imposed by any
26 supplier or serviceman not maintaining a place of business

1 within this State, who, to the satisfaction of the Department,
2 furnishes adequate security to insure collection and payment of
3 the tax. Such supplier or serviceman shall be issued, without
4 charge, a permit to collect such tax. When so authorized, it
5 shall be the duty of such supplier or serviceman to collect the
6 tax upon all tangible personal property sold to his knowledge
7 for the purpose of resale as an incident to the sale of a
8 service within this State, in the same manner and subject to
9 the same requirements including the furnishing of a receipt to
10 the serviceman (if demanded by the serviceman), as a supplier
11 or serviceman maintaining a place of business within this
12 State. The receipt given to the serviceman shall be sufficient
13 to relieve him from further liability for the tax to which such
14 receipt may refer. Such permit may be revoked by the Department
15 as provided in this Act.

16 The provisions of this paragraph are effective beginning
17 July 1, 2008. An applicant for registration that chooses to
18 register under the Streamlined Sales and Use Tax Agreement and
19 that is not otherwise required to be registered under this Act,
20 may register through the Streamlined Sales Tax online
21 registration system. No signature is required for such
22 registration through that system and an agent may register on
23 behalf of an applicant under the procedures set forth under
24 that system and rules adopted by the Department. Applicants for
25 registration that choose to register under the Streamlined
26 Sales and Use Tax Agreement and are required to be registered

1 under this Act may register through the Streamlined Sales Tax
2 online registration system, but will also be required to
3 provide any additional information and documentation required
4 under this Section before that applicant is properly registered
5 in this State. By registering under the Streamlined Sales and
6 Use Tax Agreement, the seller agrees to collect and remit sales
7 and use taxes for all taxable sales into Streamlined Sales Tax
8 Agreement member states, including member states that join
9 after the sellers' registration.

10 (Source: Laws 1965, p. 3723.)

11 (35 ILCS 115/8) (from Ch. 120, par. 439.108)

12 Sec. 8. The tax herein required to be collected by any
13 supplier or beginning July 1, 2008, by any Certified Service
14 Provider pursuant to this Act, and any such tax collected by
15 any supplier or Certified Service Provider, shall constitute a
16 debt owed by the supplier or Certified Service Provider to this
17 State.

18 (Source: Laws 1961, p. 1745.)

19 (35 ILCS 115/9) (from Ch. 120, par. 439.109)

20 Sec. 9. Each serviceman required or authorized to collect
21 the tax herein imposed shall pay to the Department the amount
22 of such tax at the time when he is required to file his return
23 for the period during which such tax was collectible, less a
24 discount of 2.1% prior to January 1, 1990, and 1.75% on and

1 after January 1, 1990, or \$5 per calendar year, whichever is
2 greater, which is allowed to reimburse the serviceman for
3 expenses incurred in collecting the tax, keeping records,
4 preparing and filing returns, remitting the tax and supplying
5 data to the Department on request.

6 Where such tangible personal property is sold under a
7 conditional sales contract, or under any other form of sale
8 wherein the payment of the principal sum, or a part thereof, is
9 extended beyond the close of the period for which the return is
10 filed, the serviceman, in collecting the tax may collect, for
11 each tax return period, only the tax applicable to the part of
12 the selling price actually received during such tax return
13 period.

14 Except as provided hereinafter in this Section, on or
15 before the twentieth day of each calendar month, such
16 serviceman shall file a return for the preceding calendar month
17 in accordance with reasonable rules and regulations to be
18 promulgated by the Department of Revenue. Such return shall be
19 filed on a form prescribed by the Department and shall contain
20 such information as the Department may reasonably require.

21 The Department may require returns to be filed on a
22 quarterly basis. If so required, a return for each calendar
23 quarter shall be filed on or before the twentieth day of the
24 calendar month following the end of such calendar quarter. The
25 taxpayer shall also file a return with the Department for each
26 of the first two months of each calendar quarter, on or before

1 the twentieth day of the following calendar month, stating:

2 1. The name of the seller;

3 2. The address of the principal place of business from
4 which he engages in business as a serviceman in this State;

5 3. The total amount of taxable receipts received by him
6 during the preceding calendar month, including receipts
7 from charge and time sales, but less all deductions allowed
8 by law;

9 4. The amount of credit provided in Section 2d of this
10 Act;

11 5. The amount of tax due;

12 5-5. The signature of the taxpayer; and

13 6. Such other reasonable information as the Department
14 may require.

15 The provisions of this paragraph are effective beginning
16 July 1, 2008. Sellers that have chosen to be Model 1 sellers
17 are not required to file returns and remit tax to the
18 Department for sales made through a Certified Service Provider.
19 Each Certified Service Provider for a Model I seller shall file
20 returns and pay the appropriate amount of tax to the Department
21 in the same manner as other taxpayers that are registered under
22 the Streamlined Sales and Use Tax Agreement. In lieu of the
23 return described in this Section, taxpayers, other than Model 1
24 taxpayers, that have chosen to be registered under the
25 Streamlined Sales and Use Tax Agreement and Certified Service
26 Providers shall submit returns in a simplified format that

1 conforms to the requirements set forth by the Governing Board
2 of the Streamlined Sales and Use Tax Agreement. Such taxpayers
3 and Certified Service Providers shall file additional
4 informational returns developed by the Department every 6
5 months under the staggered system set forth by the Governing
6 Board of the Streamlined Sales and Use Tax Agreement. The
7 Department may require by rule that the simplified returns and
8 informational returns be filed in an electronic format. The
9 Department shall by regulation provide guidance to allow a
10 Certified Service Provider a deduction for bad debts as is
11 allowed to taxpayers that report and remit tax directly to the
12 Department, consistent with Section 166 of the Internal Revenue
13 Code and such other adjustments as the Department may require
14 in regulation.

15 If a taxpayer fails to sign a return within 30 days after
16 the proper notice and demand for signature by the Department,
17 the return shall be considered valid and any amount shown to be
18 due on the return shall be deemed assessed.

19 Prior to October 1, 2003, and on and after September 1,
20 2004 a serviceman may accept a Manufacturer's Purchase Credit
21 certification from a purchaser in satisfaction of Service Use
22 Tax as provided in Section 3-70 of the Service Use Tax Act if
23 the purchaser provides the appropriate documentation as
24 required by Section 3-70 of the Service Use Tax Act. A
25 Manufacturer's Purchase Credit certification, accepted prior
26 to October 1, 2003 or on or after September 1, 2004 by a

1 serviceman as provided in Section 3-70 of the Service Use Tax
2 Act, may be used by that serviceman to satisfy Service
3 Occupation Tax liability in the amount claimed in the
4 certification, not to exceed 6.25% of the receipts subject to
5 tax from a qualifying purchase. A Manufacturer's Purchase
6 Credit reported on any original or amended return filed under
7 this Act after October 20, 2003 for reporting periods prior to
8 September 1, 2004 shall be disallowed. Manufacturer's Purchase
9 Credit reported on annual returns due on or after January 1,
10 2005 will be disallowed for periods prior to September 1, 2004.
11 No Manufacturer's Purchase Credit may be used after September
12 30, 2003 through August 31, 2004 to satisfy any tax liability
13 imposed under this Act, including any audit liability.

14 If the serviceman's average monthly tax liability to the
15 Department does not exceed \$200, the Department may authorize
16 his returns to be filed on a quarter annual basis, with the
17 return for January, February and March of a given year being
18 due by April 20 of such year; with the return for April, May
19 and June of a given year being due by July 20 of such year; with
20 the return for July, August and September of a given year being
21 due by October 20 of such year, and with the return for
22 October, November and December of a given year being due by
23 January 20 of the following year.

24 If the serviceman's average monthly tax liability to the
25 Department does not exceed \$50, the Department may authorize
26 his returns to be filed on an annual basis, with the return for

1 a given year being due by January 20 of the following year.

2 Such quarter annual and annual returns, as to form and
3 substance, shall be subject to the same requirements as monthly
4 returns.

5 Notwithstanding any other provision in this Act concerning
6 the time within which a serviceman may file his return, in the
7 case of any serviceman who ceases to engage in a kind of
8 business which makes him responsible for filing returns under
9 this Act, such serviceman shall file a final return under this
10 Act with the Department not more than 1 month after
11 discontinuing such business.

12 Beginning October 1, 1993, a taxpayer who has an average
13 monthly tax liability of \$150,000 or more shall make all
14 payments required by rules of the Department by electronic
15 funds transfer. Beginning October 1, 1994, a taxpayer who has
16 an average monthly tax liability of \$100,000 or more shall make
17 all payments required by rules of the Department by electronic
18 funds transfer. Beginning October 1, 1995, a taxpayer who has
19 an average monthly tax liability of \$50,000 or more shall make
20 all payments required by rules of the Department by electronic
21 funds transfer. Beginning October 1, 2000, a taxpayer who has
22 an annual tax liability of \$200,000 or more shall make all
23 payments required by rules of the Department by electronic
24 funds transfer. The term "annual tax liability" shall be the
25 sum of the taxpayer's liabilities under this Act, and under all
26 other State and local occupation and use tax laws administered

1 by the Department, for the immediately preceding calendar year.
2 The term "average monthly tax liability" means the sum of the
3 taxpayer's liabilities under this Act, and under all other
4 State and local occupation and use tax laws administered by the
5 Department, for the immediately preceding calendar year
6 divided by 12. Beginning on October 1, 2002, a taxpayer who has
7 a tax liability in the amount set forth in subsection (b) of
8 Section 2505-210 of the Department of Revenue Law shall make
9 all payments required by rules of the Department by electronic
10 funds transfer. Beginning July 1, 2008, and in addition to the
11 requirements of this Section, taxpayers that have chosen to be
12 registered under the Streamlined Sales and Use Tax Agreement
13 and any Certified Service Providers shall make all payments of
14 tax imposed under this Act through the use of electronic funds
15 transfer.

16 Before August 1 of each year beginning in 1993, the
17 Department shall notify all taxpayers required to make payments
18 by electronic funds transfer. All taxpayers required to make
19 payments by electronic funds transfer shall make those payments
20 for a minimum of one year beginning on October 1.

21 Any taxpayer not required to make payments by electronic
22 funds transfer may make payments by electronic funds transfer
23 with the permission of the Department.

24 All taxpayers required to make payment by electronic funds
25 transfer and any taxpayers authorized to voluntarily make
26 payments by electronic funds transfer shall make those payments

1 in the manner authorized by the Department.

2 The Department shall adopt such rules as are necessary to
3 effectuate a program of electronic funds transfer and the
4 requirements of this Section.

5 Where a serviceman collects the tax with respect to the
6 selling price of tangible personal property which he sells and
7 the purchaser thereafter returns such tangible personal
8 property and the serviceman refunds the selling price thereof
9 to the purchaser, such serviceman shall also refund, to the
10 purchaser, the tax so collected from the purchaser. When filing
11 his return for the period in which he refunds such tax to the
12 purchaser, the serviceman may deduct the amount of the tax so
13 refunded by him to the purchaser from any other Service
14 Occupation Tax, Service Use Tax, Retailers' Occupation Tax or
15 Use Tax which such serviceman may be required to pay or remit
16 to the Department, as shown by such return, provided that the
17 amount of the tax to be deducted shall previously have been
18 remitted to the Department by such serviceman. If the
19 serviceman shall not previously have remitted the amount of
20 such tax to the Department, he shall be entitled to no
21 deduction hereunder upon refunding such tax to the purchaser.

22 If experience indicates such action to be practicable, the
23 Department may prescribe and furnish a combination or joint
24 return which will enable servicemen, who are required to file
25 returns hereunder and also under the Retailers' Occupation Tax
26 Act, the Use Tax Act or the Service Use Tax Act, to furnish all

1 the return information required by all said Acts on the one
2 form.

3 Where the serviceman has more than one business registered
4 with the Department under separate registrations hereunder,
5 such serviceman shall file separate returns for each registered
6 business.

7 Beginning January 1, 1990, each month the Department shall
8 pay into the Local Government Tax Fund the revenue realized for
9 the preceding month from the 1% tax on sales of food for human
10 consumption which is to be consumed off the premises where it
11 is sold (other than alcoholic beverages, soft drinks and food
12 which has been prepared for immediate consumption) and
13 prescription and nonprescription medicines, drugs, medical
14 appliances and insulin, urine testing materials, syringes and
15 needles used by diabetics.

16 Beginning July 1, 2008, each month the Department shall pay
17 into the Local Government Tax Fund the revenue realized for the
18 preceding month from the 1% tax on sales of food and food
19 ingredients (other than prepared food), drugs for human use
20 available by prescription only, and over-the-counter-drugs for
21 human use (other than grooming and hygiene products).

22 Beginning January 1, 1990, each month the Department shall
23 pay into the County and Mass Transit District Fund 4% of the
24 revenue realized for the preceding month from the 6.25% general
25 rate.

26 Beginning August 1, 2000, each month the Department shall

1 pay into the County and Mass Transit District Fund 20% of the
2 net revenue realized for the preceding month from the 1.25%
3 rate on the selling price of motor fuel and gasohol.

4 Beginning January 1, 1990, each month the Department shall
5 pay into the Local Government Tax Fund 16% of the revenue
6 realized for the preceding month from the 6.25% general rate on
7 transfers of tangible personal property.

8 Beginning August 1, 2000, each month the Department shall
9 pay into the Local Government Tax Fund 80% of the net revenue
10 realized for the preceding month from the 1.25% rate on the
11 selling price of motor fuel and gasohol.

12 Of the remainder of the moneys received by the Department
13 pursuant to this Act, (a) 1.75% thereof shall be paid into the
14 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on
15 and after July 1, 1989, 3.8% thereof shall be paid into the
16 Build Illinois Fund; provided, however, that if in any fiscal
17 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
18 may be, of the moneys received by the Department and required
19 to be paid into the Build Illinois Fund pursuant to Section 3
20 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax
21 Act, Section 9 of the Service Use Tax Act, and Section 9 of the
22 Service Occupation Tax Act, such Acts being hereinafter called
23 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case
24 may be, of moneys being hereinafter called the "Tax Act
25 Amount", and (2) the amount transferred to the Build Illinois
26 Fund from the State and Local Sales Tax Reform Fund shall be

1 less than the Annual Specified Amount (as defined in Section 3
2 of the Retailers' Occupation Tax Act), an amount equal to the
3 difference shall be immediately paid into the Build Illinois
4 Fund from other moneys received by the Department pursuant to
5 the Tax Acts; and further provided, that if on the last
6 business day of any month the sum of (1) the Tax Act Amount
7 required to be deposited into the Build Illinois Account in the
8 Build Illinois Fund during such month and (2) the amount
9 transferred during such month to the Build Illinois Fund from
10 the State and Local Sales Tax Reform Fund shall have been less
11 than 1/12 of the Annual Specified Amount, an amount equal to
12 the difference shall be immediately paid into the Build
13 Illinois Fund from other moneys received by the Department
14 pursuant to the Tax Acts; and, further provided, that in no
15 event shall the payments required under the preceding proviso
16 result in aggregate payments into the Build Illinois Fund
17 pursuant to this clause (b) for any fiscal year in excess of
18 the greater of (i) the Tax Act Amount or (ii) the Annual
19 Specified Amount for such fiscal year; and, further provided,
20 that the amounts payable into the Build Illinois Fund under
21 this clause (b) shall be payable only until such time as the
22 aggregate amount on deposit under each trust indenture securing
23 Bonds issued and outstanding pursuant to the Build Illinois
24 Bond Act is sufficient, taking into account any future
25 investment income, to fully provide, in accordance with such
26 indenture, for the defeasance of or the payment of the

1 principal of, premium, if any, and interest on the Bonds
2 secured by such indenture and on any Bonds expected to be
3 issued thereafter and all fees and costs payable with respect
4 thereto, all as certified by the Director of the Bureau of the
5 Budget (now Governor's Office of Management and Budget). If on
6 the last business day of any month in which Bonds are
7 outstanding pursuant to the Build Illinois Bond Act, the
8 aggregate of the moneys deposited in the Build Illinois Bond
9 Account in the Build Illinois Fund in such month shall be less
10 than the amount required to be transferred in such month from
11 the Build Illinois Bond Account to the Build Illinois Bond
12 Retirement and Interest Fund pursuant to Section 13 of the
13 Build Illinois Bond Act, an amount equal to such deficiency
14 shall be immediately paid from other moneys received by the
15 Department pursuant to the Tax Acts to the Build Illinois Fund;
16 provided, however, that any amounts paid to the Build Illinois
17 Fund in any fiscal year pursuant to this sentence shall be
18 deemed to constitute payments pursuant to clause (b) of the
19 preceding sentence and shall reduce the amount otherwise
20 payable for such fiscal year pursuant to clause (b) of the
21 preceding sentence. The moneys received by the Department
22 pursuant to this Act and required to be deposited into the
23 Build Illinois Fund are subject to the pledge, claim and charge
24 set forth in Section 12 of the Build Illinois Bond Act.

25 Subject to payment of amounts into the Build Illinois Fund
26 as provided in the preceding paragraph or in any amendment

1 thereto hereafter enacted, the following specified monthly
2 installment of the amount requested in the certificate of the
3 Chairman of the Metropolitan Pier and Exposition Authority
4 provided under Section 8.25f of the State Finance Act, but not
5 in excess of the sums designated as "Total Deposit", shall be
6 deposited in the aggregate from collections under Section 9 of
7 the Use Tax Act, Section 9 of the Service Use Tax Act, Section
8 9 of the Service Occupation Tax Act, and Section 3 of the
9 Retailers' Occupation Tax Act into the McCormick Place
10 Expansion Project Fund in the specified fiscal years.

		Total
	Fiscal Year	Deposit
11		
12	1993	\$0
13	1994	53,000,000
14	1995	58,000,000
15	1996	61,000,000
16	1997	64,000,000
17	1998	68,000,000
18	1999	71,000,000
19	2000	75,000,000
20	2001	80,000,000
21	2002	93,000,000
22	2003	99,000,000
23	2004	103,000,000
24	2005	108,000,000
25	2006	113,000,000

1	2007	119,000,000
2	2008	126,000,000
3	2009	132,000,000
4	2010	139,000,000
5	2011	146,000,000
6	2012	153,000,000
7	2013	161,000,000
8	2014	170,000,000
9	2015	179,000,000
10	2016	189,000,000
11	2017	199,000,000
12	2018	210,000,000
13	2019	221,000,000
14	2020	233,000,000
15	2021	246,000,000
16	2022	260,000,000
17	2023 and	275,000,000

18 each fiscal year
19 thereafter that bonds
20 are outstanding under
21 Section 13.2 of the
22 Metropolitan Pier and
23 Exposition Authority Act,
24 but not after fiscal year 2042.

25 Beginning July 20, 1993 and in each month of each fiscal
26 year thereafter, one-eighth of the amount requested in the

1 certificate of the Chairman of the Metropolitan Pier and
2 Exposition Authority for that fiscal year, less the amount
3 deposited into the McCormick Place Expansion Project Fund by
4 the State Treasurer in the respective month under subsection
5 (g) of Section 13 of the Metropolitan Pier and Exposition
6 Authority Act, plus cumulative deficiencies in the deposits
7 required under this Section for previous months and years,
8 shall be deposited into the McCormick Place Expansion Project
9 Fund, until the full amount requested for the fiscal year, but
10 not in excess of the amount specified above as "Total Deposit",
11 has been deposited.

12 Subject to payment of amounts into the Build Illinois Fund
13 and the McCormick Place Expansion Project Fund pursuant to the
14 preceding paragraphs or in any amendments thereto hereafter
15 enacted, beginning July 1, 1993, the Department shall each
16 month pay into the Illinois Tax Increment Fund 0.27% of 80% of
17 the net revenue realized for the preceding month from the 6.25%
18 general rate on the selling price of tangible personal
19 property.

20 Subject to payment of amounts into the Build Illinois Fund
21 and the McCormick Place Expansion Project Fund pursuant to the
22 preceding paragraphs or in any amendments thereto hereafter
23 enacted, beginning with the receipt of the first report of
24 taxes paid by an eligible business and continuing for a 25-year
25 period, the Department shall each month pay into the Energy
26 Infrastructure Fund 80% of the net revenue realized from the

1 6.25% general rate on the selling price of Illinois-mined coal
2 that was sold to an eligible business. For purposes of this
3 paragraph, the term "eligible business" means a new electric
4 generating facility certified pursuant to Section 605-332 of
5 the Department of Commerce and Economic Opportunity Law of the
6 Civil Administrative Code of Illinois.

7 Remaining moneys received by the Department pursuant to
8 this Act shall be paid into the General Revenue Fund of the
9 State Treasury.

10 The Department may, upon separate written notice to a
11 taxpayer, require the taxpayer to prepare and file with the
12 Department on a form prescribed by the Department within not
13 less than 60 days after receipt of the notice an annual
14 information return for the tax year specified in the notice.
15 Such annual return to the Department shall include a statement
16 of gross receipts as shown by the taxpayer's last Federal
17 income tax return. If the total receipts of the business as
18 reported in the Federal income tax return do not agree with the
19 gross receipts reported to the Department of Revenue for the
20 same period, the taxpayer shall attach to his annual return a
21 schedule showing a reconciliation of the 2 amounts and the
22 reasons for the difference. The taxpayer's annual return to the
23 Department shall also disclose the cost of goods sold by the
24 taxpayer during the year covered by such return, opening and
25 closing inventories of such goods for such year, cost of goods
26 used from stock or taken from stock and given away by the

1 taxpayer during such year, pay roll information of the
2 taxpayer's business during such year and any additional
3 reasonable information which the Department deems would be
4 helpful in determining the accuracy of the monthly, quarterly
5 or annual returns filed by such taxpayer as hereinbefore
6 provided for in this Section.

7 If the annual information return required by this Section
8 is not filed when and as required, the taxpayer shall be liable
9 as follows:

10 (i) Until January 1, 1994, the taxpayer shall be liable
11 for a penalty equal to 1/6 of 1% of the tax due from such
12 taxpayer under this Act during the period to be covered by
13 the annual return for each month or fraction of a month
14 until such return is filed as required, the penalty to be
15 assessed and collected in the same manner as any other
16 penalty provided for in this Act.

17 (ii) On and after January 1, 1994, the taxpayer shall
18 be liable for a penalty as described in Section 3-4 of the
19 Uniform Penalty and Interest Act.

20 The chief executive officer, proprietor, owner or highest
21 ranking manager shall sign the annual return to certify the
22 accuracy of the information contained therein. Any person who
23 willfully signs the annual return containing false or
24 inaccurate information shall be guilty of perjury and punished
25 accordingly. The annual return form prescribed by the
26 Department shall include a warning that the person signing the

1 return may be liable for perjury.

2 The foregoing portion of this Section concerning the filing
3 of an annual information return shall not apply to a serviceman
4 who is not required to file an income tax return with the
5 United States Government.

6 As soon as possible after the first day of each month, upon
7 certification of the Department of Revenue, the Comptroller
8 shall order transferred and the Treasurer shall transfer from
9 the General Revenue Fund to the Motor Fuel Tax Fund an amount
10 equal to 1.7% of 80% of the net revenue realized under this Act
11 for the second preceding month. Beginning April 1, 2000, this
12 transfer is no longer required and shall not be made.

13 Net revenue realized for a month shall be the revenue
14 collected by the State pursuant to this Act, less the amount
15 paid out during that month as refunds to taxpayers for
16 overpayment of liability.

17 For greater simplicity of administration, it shall be
18 permissible for manufacturers, importers and wholesalers whose
19 products are sold by numerous servicemen in Illinois, and who
20 wish to do so, to assume the responsibility for accounting and
21 paying to the Department all tax accruing under this Act with
22 respect to such sales, if the servicemen who are affected do
23 not make written objection to the Department to this
24 arrangement.

25 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
26 94-1074, eff. 12-26-06.)

1 (35 ILCS 115/11) (from Ch. 120, par. 439.111)

2 Sec. 11. Every supplier or Certified Service Provider
3 required or authorized to collect taxes hereunder and every
4 serviceman making sales of service in this State on or after
5 the effective date hereof shall keep such records, receipts,
6 invoices and other pertinent books, documents, memoranda and
7 papers as the Department shall require, in such form as the
8 Department shall require. The Department may adopt rules that
9 establish requirements, including record forms and formats,
10 for records required to be kept and maintained by taxpayers.
11 For purposes of this Section, "records" means all data
12 maintained by the taxpayer, including data on paper, microfilm,
13 microfiche or any type of machine-sensible data compilation.
14 For the purpose of administering and enforcing the provisions
15 hereof, the Department, or any officer or employee of the
16 Department designated, in writing, by the Director thereof, may
17 hold investigations and hearings concerning any matters
18 covered herein and may examine any books, papers, records,
19 documents or memoranda of any supplier or serviceman bearing
20 upon the sales of services or the sales of tangible personal
21 property to servicemen, and may require the attendance of such
22 person or any officer or employee of such person, or of any
23 person having knowledge of the facts, and may take testimony
24 and require proof for its information.

25 (Source: P.A. 88-480.)

1 (35 ILCS 115/12) (from Ch. 120, par. 439.112)
2 Sec. 12. All of the provisions of Sections 1d, 1e, 1f, 1i,
3 1j, 1j.1, 1k, 1m, 1n, 1o, 2-6, 2-10.2 2-54, 2a, 2b, 2c, 3
4 (except as to the disposition by the Department of the tax
5 collected under this Act), 3.5, 3.6, 3.8, 4 (except that the
6 time limitation provisions shall run from the date when the tax
7 is due rather than from the date when gross receipts are
8 received), 5 (except that the time limitation provisions on the
9 issuance of notices of tax liability shall run from the date
10 when the tax is due rather than from the date when gross
11 receipts are received), 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 5k, 5l,
12 7, 8, 9, 10, 11 and 12 of the "Retailers' Occupation Tax Act"
13 which are not inconsistent with this Act, and Section 3-7 of
14 the Uniform Penalty and Interest Act shall apply, as far as
15 practicable, to the subject matter of this Act to the same
16 extent as if such provisions were included herein.
17 (Source: P.A. 94-781, eff. 5-19-06; 94-1021, eff. 7-12-06;
18 revised 8-03-06.)

19 Section 30. The Retailers' Occupation Tax Act is amended by
20 changing Sections 1, 2, 2-5, 2-5.5, 2-10, 2-10.5, 2-25, 2a, and
21 3 and by adding Sections 2-5.1, 2-10.2, 2-10.3, 3.5, 3.6, and
22 3.8 as follows:

23 (35 ILCS 120/1) (from Ch. 120, par. 440)

1 Sec. 1. Definitions. "Sale at retail" means any transfer of
2 the ownership of or title to tangible personal property to a
3 purchaser, for the purpose of use or consumption, and not for
4 the purpose of resale in any form as tangible personal property
5 to the extent not first subjected to a use for which it was
6 purchased, for a valuable consideration: Provided that the
7 property purchased is deemed to be purchased for the purpose of
8 resale, despite first being used, to the extent to which it is
9 resold as an ingredient of an intentionally produced product or
10 byproduct of manufacturing. For this purpose, slag produced as
11 an incident to manufacturing pig iron or steel and sold is
12 considered to be an intentionally produced byproduct of
13 manufacturing. Transactions whereby the possession of the
14 property is transferred but the seller retains the title as
15 security for payment of the selling price shall be deemed to be
16 sales.

17 "Sale at retail" shall be construed to include any transfer
18 of the ownership of or title to tangible personal property to a
19 purchaser, for use or consumption by any other person to whom
20 such purchaser may transfer the tangible personal property
21 without a valuable consideration, and to include any transfer,
22 whether made for or without a valuable consideration, for
23 resale in any form as tangible personal property unless made in
24 compliance with Section 2c of this Act.

25 Sales of tangible personal property, which property, to the
26 extent not first subjected to a use for which it was purchased,

1 as an ingredient or constituent, goes into and forms a part of
2 tangible personal property subsequently the subject of a "Sale
3 at retail", are not sales at retail as defined in this Act:
4 Provided that the property purchased is deemed to be purchased
5 for the purpose of resale, despite first being used, to the
6 extent to which it is resold as an ingredient of an
7 intentionally produced product or byproduct of manufacturing.

8 "Sale at retail" shall, through June 30, 2008, be construed
9 to include any Illinois florist's sales transaction in which
10 the purchase order is received in Illinois by a florist and the
11 sale is for use or consumption, but the Illinois florist has a
12 florist in another state deliver the property to the purchaser
13 or the purchaser's donee in such other state.

14 Nonreusable tangible personal property that is used by
15 persons engaged in the business of operating a restaurant,
16 cafeteria, or drive-in is a sale for resale when it is
17 transferred to customers in the ordinary course of business as
18 part of the sale of food or beverages and is used to deliver,
19 package, or consume food or beverages, regardless of where
20 consumption of the food or beverages occurs. Examples of those
21 items include, but are not limited to nonreusable, paper and
22 plastic cups, plates, baskets, boxes, sleeves, buckets or other
23 containers, utensils, straws, placemats, napkins, doggie bags,
24 and wrapping or packaging materials that are transferred to
25 customers as part of the sale of food or beverages in the
26 ordinary course of business.

1 The purchase, employment and transfer of such tangible
2 personal property as newsprint and ink for the primary purpose
3 of conveying news (with or without other information) is not a
4 purchase, use or sale of tangible personal property.

5 A person whose activities are organized and conducted
6 primarily as a not-for-profit service enterprise, and who
7 engages in selling tangible personal property at retail
8 (whether to the public or merely to members and their guests)
9 is engaged in the business of selling tangible personal
10 property at retail with respect to such transactions, excepting
11 only a person organized and operated exclusively for
12 charitable, religious or educational purposes either (1), to
13 the extent of sales by such person to its members, students,
14 patients or inmates of tangible personal property to be used
15 primarily for the purposes of such person, or (2), to the
16 extent of sales by such person of tangible personal property
17 which is not sold or offered for sale by persons organized for
18 profit. The selling of school books and school supplies by
19 schools at retail to students is not "primarily for the
20 purposes of" the school which does such selling. The provisions
21 of this paragraph shall not apply to nor subject to taxation
22 occasional dinners, socials or similar activities of a person
23 organized and operated exclusively for charitable, religious
24 or educational purposes, whether or not such activities are
25 open to the public.

26 A person who is the recipient of a grant or contract under

1 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
2 serves meals to participants in the federal Nutrition Program
3 for the Elderly in return for contributions established in
4 amount by the individual participant pursuant to a schedule of
5 suggested fees as provided for in the federal Act is not
6 engaged in the business of selling tangible personal property
7 at retail with respect to such transactions.

8 "Purchaser" means anyone who, through a sale at retail,
9 acquires the ownership of or title to tangible personal
10 property for a valuable consideration.

11 "Reseller of motor fuel" means any person engaged in the
12 business of selling or delivering or transferring title of
13 motor fuel to another person other than for use or consumption.
14 No person shall act as a reseller of motor fuel within this
15 State without first being registered as a reseller pursuant to
16 Section 2c or a retailer pursuant to Section 2a.

17 "Selling price" or the "amount of sale" means the
18 consideration for a sale valued in money whether received in
19 money or otherwise, including cash, credits, property, other
20 than as hereinafter provided, and services, but not including
21 the value of or credit given for traded-in tangible personal
22 property where the item that is traded-in is of like kind and
23 character as that which is being sold, and shall be determined
24 without any deduction on account of the cost of the property
25 sold, the cost of materials used, labor or service cost or any
26 other expense whatsoever, but does not include charges that are

1 added to prices by sellers on account of the seller's tax
2 liability under this Act, or on account of the seller's duty to
3 collect, from the purchaser, the tax that is imposed by the Use
4 Tax Act, or on account of the seller's tax liability under
5 Section 8-11-1 of the Illinois Municipal Code, as heretofore
6 and hereafter amended, or on account of the seller's tax
7 liability under the County Retailers' Occupation Tax Act, or on
8 account of the seller's tax liability under the Home Rule
9 Municipal Soft Drink Retailers' Occupation Tax, or on account
10 of the seller's tax liability under any tax imposed under the
11 "Regional Transportation Authority Act", approved December 12,
12 1973. Effective December 1, 1985, "selling price" shall include
13 charges that are added to prices by sellers on account of the
14 seller's tax liability under the Cigarette Tax Act, on account
15 of the sellers' duty to collect, from the purchaser, the tax
16 imposed under the Cigarette Use Tax Act, and on account of the
17 seller's duty to collect, from the purchaser, any cigarette tax
18 imposed by a home rule unit.

19 The phrase "like kind and character" shall be liberally
20 construed (including but not limited to any form of motor
21 vehicle for any form of motor vehicle, or any kind of farm or
22 agricultural implement for any other kind of farm or
23 agricultural implement), while not including a kind of item
24 which, if sold at retail by that retailer, would be exempt from
25 retailers' occupation tax and use tax as an isolated or
26 occasional sale.

1 "Gross receipts" from the sales of tangible personal
2 property at retail means the total selling price or the amount
3 of such sales, as hereinbefore defined. In the case of charge
4 and time sales, the amount thereof shall be included only as
5 and when payments are received by the seller. Receipts or other
6 consideration derived by a seller from the sale, transfer or
7 assignment of accounts receivable to a wholly owned subsidiary
8 will not be deemed payments prior to the time the purchaser
9 makes payment on such accounts.

10 "Department" means the Department of Revenue.

11 "Person" means any natural individual, firm, partnership,
12 association, joint stock company, joint adventure, public or
13 private corporation, limited liability company, or a receiver,
14 executor, trustee, guardian or other representative appointed
15 by order of any court.

16 The isolated or occasional sale of tangible personal
17 property at retail by a person who does not hold himself out as
18 being engaged (or who does not habitually engage) in selling
19 such tangible personal property at retail, or a sale through a
20 bulk vending machine, does not constitute engaging in a
21 business of selling such tangible personal property at retail
22 within the meaning of this Act; provided that any person who is
23 engaged in a business which is not subject to the tax imposed
24 by this Act because of involving the sale of or a contract to
25 sell real estate or a construction contract to improve real
26 estate or a construction contract to engineer, install, and

1 maintain an integrated system of products, but who, in the
2 course of conducting such business, transfers tangible
3 personal property to users or consumers in the finished form in
4 which it was purchased, and which does not become real estate
5 or was not engineered and installed, under any provision of a
6 construction contract or real estate sale or real estate sales
7 agreement entered into with some other person arising out of or
8 because of such nontaxable business, is engaged in the business
9 of selling tangible personal property at retail to the extent
10 of the value of the tangible personal property so transferred.
11 If, in such a transaction, a separate charge is made for the
12 tangible personal property so transferred, the value of such
13 property, for the purpose of this Act, shall be the amount so
14 separately charged, but not less than the cost of such property
15 to the transferor; if no separate charge is made, the value of
16 such property, for the purposes of this Act, is the cost to the
17 transferor of such tangible personal property. Construction
18 contracts for the improvement of real estate consisting of
19 engineering, installation, and maintenance of voice, data,
20 video, security, and all telecommunication systems do not
21 constitute engaging in a business of selling tangible personal
22 property at retail within the meaning of this Act if they are
23 sold at one specified contract price.

24 A person who holds himself or herself out as being engaged
25 (or who habitually engages) in selling tangible personal
26 property at retail is a person engaged in the business of

1 selling tangible personal property at retail hereunder with
2 respect to such sales (and not primarily in a service
3 occupation) notwithstanding the fact that such person designs
4 and produces such tangible personal property on special order
5 for the purchaser and in such a way as to render the property
6 of value only to such purchaser, if such tangible personal
7 property so produced on special order serves substantially the
8 same function as stock or standard items of tangible personal
9 property that are sold at retail.

10 Persons who engage in the business of transferring tangible
11 personal property upon the redemption of trading stamps are
12 engaged in the business of selling such property at retail and
13 shall be liable for and shall pay the tax imposed by this Act
14 on the basis of the retail value of the property transferred
15 upon redemption of such stamps.

16 "Bulk vending machine" means a vending machine, containing
17 unsorted confections, nuts, toys, or other items designed
18 primarily to be used or played with by children which, when a
19 coin or coins of a denomination not larger than \$0.50 are
20 inserted, are dispensed in equal portions, at random and
21 without selection by the customer.

22 Beginning July 1, 2008, "lease or rental" means the
23 transfer of possession or control of tangible personal property
24 for a fixed or indeterminate term for consideration. A lease or
25 rental may include future options to purchase or extend.

26 (A) Lease or rental does not include:

1 (1) A transfer of possession or control of property
2 under a security agreement or deferred payment plan
3 that requires the transfer of title upon completion of
4 the required payments;

5 (2) A transfer of possession or control of property
6 under an agreement that requires the transfer of title
7 upon the completion of required payments and payment of
8 an option price does not exceed the greater of \$100 or
9 1% of the total required payments; or

10 (3) Providing tangible personal property along
11 with an operator for a fixed or indeterminate period of
12 time. A condition for this exclusion is that the
13 operator is necessary for the equipment to perform as
14 designed. For the purpose of this subsection, an
15 operator must do more than maintain, inspect, or set-up
16 the tangible personal property.

17 (B) Lease or rental does not include agreements
18 covering motor vehicles and trailers where the amount of
19 consideration may be increased or decreased by reference to
20 the amount realized upon sale or disposition of the
21 property as defined in 26 U.S.C. 7701(h)(1).

22 (C) This definition shall be used for purposes of this
23 Act regardless if a transaction is characterized as a lease
24 or rental under generally accepted accounting principles,
25 the Internal Revenue Code, the Uniform Commercial Code, or
26 other provisions of federal, state or local law.

1 Beginning January 1, 2008, "computer" means an electronic
2 device that accepts information in digital or similar form and
3 manipulates it for a result based on a sequence of
4 instructions.

5 Beginning January 1, 2008, "computer software" means a set
6 of coded instructions delivered by any means, including
7 delivered electronically or by load and leave, designed to
8 cause a computer or automatic data processing equipment to
9 perform a task.

10 Beginning January 1, 2008, "delivered electronically"
11 means delivered to the purchaser by means other than tangible
12 storage media.

13 Beginning January 1, 2008, "electronic" means relating to
14 technology having electrical, digital, magnetic, wireless,
15 optical, electromagnetic, or similar capabilities.

16 Beginning January 1, 2008, "load and leave" means delivery
17 to the transferee by use of a tangible storage media where the
18 tangible storage media is not physically transferred to the
19 transferee.

20 Beginning January 1, 2008, "prewritten computer software"
21 means computer software, including prewritten upgrades, that
22 is not designed and developed by the author or other creator to
23 the specifications of a specific transferee. The combining of 2
24 or more prewritten computer software programs or prewritten
25 portions thereof does not cause the combination to be other
26 than prewritten computer software. Prewritten computer

1 software includes software designed and developed by the author
2 or other creator to the specifications of a specific transferee
3 when it is transferred to a person other than the specific
4 transferee. When a person modifies or enhances computer
5 software of which the person is not the author or creator, the
6 person shall be deemed to be the author or creator only of such
7 person's modifications or enhancements. Prewritten computer
8 software or a prewritten portion thereof that is modified or
9 enhanced to any degree, when the modification or enhancement is
10 designed and developed to the specifications of a specific
11 transferee, remains prewritten computer software, except when
12 there is a reasonable, separately stated charge on an invoice
13 or other statement of the price given to the transferee for the
14 modification or enhancement, the modification or enhancement
15 does not constitute prewritten computer software.

16 Beginning January 1, 2008, "transfer", for purposes of the
17 tax imposed by subsection (b) of Section 2 of this Act, means
18 any transfer of the right to use or possess prewritten computer
19 software, regardless of whether that right is combined with the
20 title to or ownership of the software and includes, but is not
21 limited to, a transfer by sale, license, lease or rental,
22 except that it does not include the transfer of prewritten
23 computer software for re-transfer.

24 Beginning January 1, 2008, "transferee", for purposes of
25 the tax imposed under subsection (b) of Section 2 of this Act,
26 means any person who has received the right to use or possess

1 prewritten computer software that is transferred by sale,
2 license, lease, rental or other transaction.

3 Beginning January 1, 2008, "transfer price", for purposes
4 of the tax imposed under subsection (b) of Section 2 of this
5 Act, means all consideration for the right to use or possess
6 prewritten computer software that is transferred by sale,
7 license, lease, rental, or other transaction and includes, but
8 is not limited to, money or otherwise, including cash, credits,
9 services, and property of every kind or nature, and shall be
10 determined without deduction on account of the cost of software
11 transferred, the cost of materials used, labor or service cost
12 or any other expense whatsoever, but does not include amounts
13 that are added to charges by transferors on account of the
14 transferor's tax liability under subsection (b) of Section 3 of
15 this Act, or on account of the transferor's duty to collect
16 from the transferee, a tax that is imposed by the Use Tax Act.

17 Beginning January 1, 2008, "transferor", for purposes of
18 the tax imposed under subsection (b) of Section 2 of this Act,
19 means any person who engages in the business of transferring
20 the right to use or possess prewritten computer software by
21 sale, license, lease, rental, or other transaction.

22 Beginning January 1, 2008, "upgrade" means any patch, code,
23 strands of code, or addition or change to the coding of
24 computer software.

25 Beginning July 1, 2008, "Streamlined Sales and Use Tax
26 Agreement" means the agreement adopted the 12th day of

1 November, 2002, as now or hereafter amended, by states that
2 enacted authority to engage in multistate discussions as
3 described in Section 5 of the Simplified Sales and Use Tax
4 Administration Act.

5 Beginning July 1, 2008, "agent" means, for purposes of the
6 Streamlined Sales and Use Tax Agreement, a person appointed by
7 a seller to represent that seller before the member states of
8 the Streamlined Sales and Use Tax Agreement.

9 Beginning July 1, 2008, "Certified Automated System" or
10 "CAS" means software certified under the Streamlined Sales and
11 Use Tax Agreement to calculate the tax imposed by each
12 jurisdiction on a transaction, determine the amount of tax to
13 remit to the appropriate state, and maintain a record of the
14 transaction.

15 Beginning July 1, 2008, "Certified Service Provider" or
16 "CSP" means an agent certified under the Streamlined Sales and
17 Use Tax Agreement to perform all the seller's sales and use tax
18 functions, other than the seller's obligation to remit tax on
19 its own purchases.

20 Beginning July 1, 2008, "Model 1 Seller" means a seller
21 that has selected a CSP as its agent to perform all the
22 seller's sales and use tax functions, other than the seller's
23 obligation to remit tax on its own purchases.

24 Beginning July 1, 2008, "Model 2 Seller" means a seller
25 that has selected a CAS to perform part of its sales and use
26 tax functions, but retains responsibility for remitting the

1 tax.

2 Beginning July 1, 2008, "Model 3 Seller" means a seller
3 that has sales in at least 5 member states, has total annual
4 sales revenue of at least \$500,000,000, has a proprietary
5 system that calculates the amount of tax due each jurisdiction,
6 and has entered into a performance agreement with the
7 Streamlined Sales and Use Tax Agreement member states that
8 establishes a tax performance standard for the seller. As used
9 in this definition, a seller includes an affiliated group of
10 sellers using the same proprietary system.

11 Beginning July 1, 2008, "food and food ingredients" means
12 substances, whether in liquid, concentrated, solid, frozen,
13 dried, or dehydrated form, that are sold for ingestion or
14 chewing by humans and are consumed for their taste or
15 nutritional value. "Food and food ingredients" does not include
16 alcoholic beverages, tobacco, or soft drinks.

17 Beginning July 1, 2008, "Prepared food" means:

18 (A) Food sold in a heated state or heated by the
19 seller;

20 (B) Two or more food ingredients mixed or combined by
21 the seller for sale as a single item (except for food that
22 is only cut, repackaged, or pasteurized by the seller, and
23 eggs, fish, meat, poultry, and foods containing these raw
24 animal foods requiring cooking by the consumer as
25 recommended by the Food and Drug Administration in chapter
26 3, part 401.11 of its Food Code so as to prevent food borne

1 illnesses); or

2 (C) Food sold with eating utensils provided by the
3 seller, including plates, knives, forks, spoons, glasses,
4 cups, napkins, or straws. A plate does not include a
5 container or packaging used to transport the food.

6 Subparts A and B of the definition of "prepared food" do
7 not apply to food sold in an unheated state by weight or volume
8 as a single item or bakery items, including bread, rolls, buns,
9 biscuits, bagels, croissants, pastries, donuts, Danish, cakes,
10 tortes, pies, tarts, muffins, bars, cookies, tortillas.

11 Beginning January 1, 2008, "soft drinks" mean
12 non-alcoholic beverages that contain natural or artificial
13 sweeteners. "Soft drinks" do not include beverages that contain
14 milk or milk products, soy, rice or similar milk substitutes,
15 or greater than 50% of vegetable or fruit juice by volume.

16 Beginning July 1, 2008, "tangible personal property" means
17 personal property that can be seen, weighed, measured, felt, or
18 touched, or that is in any other manner perceptible to the
19 senses. "Tangible personal property" includes prewritten
20 computer software.

21 Beginning July 1, 2008, "drug" means a compound, substance,
22 or preparation for human use, including insulin, and any
23 component of a compound, substance or preparation for human
24 use, other than "food and food ingredients", "dietary
25 supplements", "grooming and hygiene products", or "alcoholic
26 beverages":

1 (A) Recognized in the official United States
2 Pharmacopoeia, official Homeopathic Pharmacopoeia of the
3 United States, or official National Formulary, and
4 supplement to any of them; or

5 (B) Intended for use in the diagnosis, cure,
6 mitigation, treatment, or prevention of disease; or

7 (C) Intended to affect the structure or any function of
8 the body.

9 Beginning July 1, 2008, "prescription" means an order,
10 formula or recipe issued in any form of oral, written,
11 electronic, or other means of transmission by a physician
12 licensed to practice medicine in all its branches under the
13 Medical Practice Act of 1987, a dentist licensed under the
14 Illinois Dental Practice Act, a podiatrist licensed under the
15 Podiatric Medical Practice Act of 1987, a physician assistant
16 licensed under the Physician Assistant Practice Act of 1987, or
17 an advanced practice nurse with a written collaborative
18 agreement under Section 15-15 and prescriptive authority in
19 accordance with Section 15-20 of the Nursing and Advanced
20 Practice Nursing Act.

21 Beginning July 1, 2008, "over-the-counter-drug" means a
22 drug for human use that contains a label that identifies the
23 product as a drug as required by 21 C.F.R. Section 201.66. The
24 "over-the-counter-drug" label includes:

25 A "Drug Facts" panel; or

26 A statement of the "active ingredient(s)" with a list

1 of those ingredients contained in the compound, substance
2 or preparation.

3 Beginning on January 1, 2008 and through June 30, 2008, the
4 terms "medicine" and "drugs" do not include items that qualify
5 as grooming and hygiene products, unless those products are
6 available by prescription only.

7 Beginning January 1, 2008, "grooming and hygiene products"
8 are soaps and cleaning solutions, shampoo, toothpaste,
9 mouthwash, antiperspirants, and sun tan lotions and screens,
10 regardless of whether the items meet the definition of
11 "over-the-counter-drugs".

12 Beginning July 1, 2008, "prosthetic device" means a
13 replacement, corrective or supportive device including repair
14 and replacement parts for same worn on or in the body to:

15 (A) Artificially replace a missing portion of the body;

16 (B) Prevent or correct physical deformity or
17 malfunction; or

18 (C) Support a weak or deformed portion of the body.

19 Beginning July 1, 2008, "dietary supplement" means any
20 product, other than "tobacco," intended to supplement the diet
21 that:

22 (A) Contains one or more of the following dietary
23 ingredients:

24 (1) A vitamin;

25 (2) A mineral;

26 (3) An herb or other botanical;

1 (4) An amino acid;

2 (5) A dietary substance for use by humans to
3 supplement the diet by increasing the total dietary
4 intake; or

5 (6) A concentrate, metabolite, constituent,
6 extract, or combination of any ingredient described in
7 items (1) through (5) of this subparagraph (A); and

8 (B) Is intended for ingestion in tablet, capsule,
9 powder, softgel, gelcap, or liquid form, or if not intended
10 for ingestion in such a form, is not represented as
11 conventional food and is not represented for use as a sole
12 item of a meal or of the diet; and

13 (C) Is required to be labeled as a dietary supplement,
14 identifiable by the "Supplemental Facts" box found on the
15 label and as required pursuant to 21 C.F.R Section 101.36.

16 Beginning July 1, 2008, "alcoholic beverages" means
17 beverages that are suitable for human consumption and contain
18 one-half of one percent or more of alcohol by volume.

19 Beginning July 1, 2008, "tobacco" means cigarettes,
20 cigars, chewing or pipe tobacco, or any other item that
21 contains tobacco.

22 Beginning July 1, 2008, "direct mail" means printed
23 material delivered or distributed by United States mail or
24 other delivery service to a mass audience or to addressees on a
25 mailing list provided by the purchaser or at the direction of
26 the purchaser when the cost of the items are not billed

1 directly to the recipients. "Direct mail" includes tangible
2 personal property supplied directly or indirectly by the
3 purchaser to the direct mail seller for inclusion in the
4 package containing the printed material. "Direct mail" does not
5 include multiple items of printed material delivered to a
6 single address.

7 (Source: P.A. 92-213, eff. 1-1-02.)

8 (35 ILCS 120/2) (from Ch. 120, par. 441)

9 Sec. 2. Tax imposed.

10 (a) A tax is imposed upon persons engaged in the business
11 of selling at retail tangible personal property, including
12 computer software, and including photographs, negatives, and
13 positives that are the product of photoprocessing, but not
14 including products of photoprocessing produced for use in
15 motion pictures for public commercial exhibition. Beginning
16 January 1, 2001, prepaid telephone calling arrangements shall
17 be considered tangible personal property subject to the tax
18 imposed under this Act regardless of the form in which those
19 arrangements may be embodied, transmitted, or fixed by any
20 method now known or hereafter developed.

21 Beginning on January 1, 2008, computer software is no
22 longer taxable under this subsection (a) to the extent that and
23 for so long as it is taxable under subsection (b) of this
24 Section.

25 (b) Beginning on January 1, 2008, a tax is imposed on

1 persons engaged in this State in the business of transferring
2 prewritten computer software.

3 The exemptions and exclusions from the tax imposed under
4 this Act with respect to the sale of tangible personal property
5 also apply with respect to the transfer of prewritten computer
6 software, regardless of the manner in which the prewritten
7 computer software is transferred.

8 A reference in this Act to the sale or purchase of tangible
9 personal property includes a reference to the transfer of
10 prewritten computer software where applicable; a reference in
11 this Act to a seller or retailer includes a reference to a
12 transferor where applicable; and a reference in this Act to a
13 purchaser includes a reference to a transferee where
14 applicable.

15 The changes made by this amendatory Act of the 95th General
16 Assembly with respect to prewritten computer software apply to
17 any payments made on or after January 1, 2008, regardless of
18 whether the payments are made under an existing agreement or
19 one entered into on or after January 1, 2008.

20 (c) Notwithstanding any other provision of this Act, on or
21 after July 1, 2008, the location of where a sale takes place
22 shall be determined under the following rules:

23 (1) When the product is received by the purchaser at a
24 business location of the seller, the sale is sourced to
25 that business location.

26 (2) When the product is not received by the purchaser

1 at a business location of the seller, the sale is sourced
2 to the location where receipt by the purchaser (or the
3 purchaser's donee, designated as such by the purchaser)
4 occurs, including the location indicated by instructions
5 for delivery to the purchaser (or donee), known to the
6 seller.

7 (3) When subdivisions (c) (1) and (c) (2) of this Section
8 do not apply, the sale is sourced to the location indicated
9 by an address for the purchaser that is available from the
10 business records of the seller that are maintained in the
11 ordinary course of the seller's business when use of this
12 address does not constitute bad faith.

13 (4) When subdivisions (c) (1), (c) (2), and (c) (3) of
14 this Section do not apply, the sale is sourced to the
15 location indicated by an address for the purchaser obtained
16 during the consummation of the sale, including the address
17 of a purchaser's payment instrument, if no other address is
18 available, when use of this address does not constitute bad
19 faith.

20 (5) When none of the previous rules of subdivisions
21 (c) (1), (c) (2), (c) (3), or (c) (4) of this Section apply,
22 including the circumstance in which the seller is without
23 sufficient information to apply the previous rules, then
24 the location will be determined by the address from which
25 tangible personal property was shipped or the canned
26 computer software was delivered electronically (was first

1 available for transmission by the seller).

2 For purposes of this subsection (c), the terms "receive"
3 and "receipt" mean taking possession of tangible personal
4 property. The terms "receive" and "receipt" do not include
5 possession by a shipping company on behalf of the purchaser.
6 The sourcing rules provided in this subsection (c) of this
7 Section do not apply to the sale of motor vehicles, watercraft,
8 aircraft, and trailers that are required to be registered or
9 titled with an agency of this State.

10 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

11 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

12 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
13 sale of the following tangible personal property are exempt
14 from the tax imposed by this Act:

15 (1) Farm chemicals.

16 (2) Farm machinery and equipment, both new and used,
17 including that manufactured on special order, certified by the
18 purchaser to be used primarily for production agriculture or
19 State or federal agricultural programs, including individual
20 replacement parts for the machinery and equipment, including
21 machinery and equipment purchased for lease, and including
22 implements of husbandry defined in Section 1-130 of the
23 Illinois Vehicle Code, farm machinery and agricultural
24 chemical and fertilizer spreaders, and nurse wagons required to
25 be registered under Section 3-809 of the Illinois Vehicle Code,

1 but excluding other motor vehicles required to be registered
2 under the Illinois Vehicle Code. Horticultural polyhouses or
3 hoop houses used for propagating, growing, or overwintering
4 plants shall be considered farm machinery and equipment under
5 this item (2). Agricultural chemical tender tanks and dry boxes
6 shall include units sold separately from a motor vehicle
7 required to be licensed and units sold mounted on a motor
8 vehicle required to be licensed, if the selling price of the
9 tender is separately stated.

10 Farm machinery and equipment shall include precision
11 farming equipment that is installed or purchased to be
12 installed on farm machinery and equipment including, but not
13 limited to, tractors, harvesters, sprayers, planters, seeders,
14 or spreaders. Precision farming equipment includes, but is not
15 limited to, soil testing sensors, computers, monitors,
16 software, global positioning and mapping systems, and other
17 such equipment.

18 Farm machinery and equipment also includes computers,
19 sensors, software, and related equipment used primarily in the
20 computer-assisted operation of production agriculture
21 facilities, equipment, and activities such as, but not limited
22 to, the collection, monitoring, and correlation of animal and
23 crop data for the purpose of formulating animal diets and
24 agricultural chemicals. This item (7) is exempt from the
25 provisions of Section 2-70.

26 (3) Until July 1, 2003, distillation machinery and

1 equipment, sold as a unit or kit, assembled or installed by the
2 retailer, certified by the user to be used only for the
3 production of ethyl alcohol that will be used for consumption
4 as motor fuel or as a component of motor fuel for the personal
5 use of the user, and not subject to sale or resale.

6 (4) Until July 1, 2003 and beginning again September 1,
7 2004, graphic arts machinery and equipment, including repair
8 and replacement parts, both new and used, and including that
9 manufactured on special order or purchased for lease, certified
10 by the purchaser to be used primarily for graphic arts
11 production. Equipment includes chemicals or chemicals acting
12 as catalysts but only if the chemicals or chemicals acting as
13 catalysts effect a direct and immediate change upon a graphic
14 arts product.

15 (5) A motor vehicle of the first division, a motor vehicle
16 of the second division that is a self-contained motor vehicle
17 designed or permanently converted to provide living quarters
18 for recreational, camping, or travel use, with direct walk
19 through access to the living quarters from the driver's seat,
20 or a motor vehicle of the second division that is of the van
21 configuration designed for the transportation of not less than
22 7 nor more than 16 passengers, as defined in Section 1-146 of
23 the Illinois Vehicle Code, that is used for automobile renting,
24 as defined in the Automobile Renting Occupation and Use Tax
25 Act.

26 (6) Personal property sold by a teacher-sponsored student

1 organization affiliated with an elementary or secondary school
2 located in Illinois.

3 (7) Until July 1, 2003, proceeds of that portion of the
4 selling price of a passenger car the sale of which is subject
5 to the Replacement Vehicle Tax.

6 (8) Personal property sold to an Illinois county fair
7 association for use in conducting, operating, or promoting the
8 county fair.

9 (9) Personal property sold to a not-for-profit arts or
10 cultural organization that establishes, by proof required by
11 the Department by rule, that it has received an exemption under
12 Section 501(c)(3) of the Internal Revenue Code and that is
13 organized and operated primarily for the presentation or
14 support of arts or cultural programming, activities, or
15 services. These organizations include, but are not limited to,
16 music and dramatic arts organizations such as symphony
17 orchestras and theatrical groups, arts and cultural service
18 organizations, local arts councils, visual arts organizations,
19 and media arts organizations. On and after the effective date
20 of this amendatory Act of the 92nd General Assembly, however,
21 an entity otherwise eligible for this exemption shall not make
22 tax-free purchases unless it has an active identification
23 number issued by the Department.

24 (10) Personal property sold by a corporation, society,
25 association, foundation, institution, or organization, other
26 than a limited liability company, that is organized and

1 operated as a not-for-profit service enterprise for the benefit
2 of persons 65 years of age or older if the personal property
3 was not purchased by the enterprise for the purpose of resale
4 by the enterprise.

5 (11) Personal property sold to a governmental body, to a
6 corporation, society, association, foundation, or institution
7 organized and operated exclusively for charitable, religious,
8 or educational purposes, or to a not-for-profit corporation,
9 society, association, foundation, institution, or organization
10 that has no compensated officers or employees and that is
11 organized and operated primarily for the recreation of persons
12 55 years of age or older. A limited liability company may
13 qualify for the exemption under this paragraph only if the
14 limited liability company is organized and operated
15 exclusively for educational purposes. On and after July 1,
16 1987, however, no entity otherwise eligible for this exemption
17 shall make tax-free purchases unless it has an active
18 identification number issued by the Department.

19 (12) Tangible personal property sold to interstate
20 carriers for hire for use as rolling stock moving in interstate
21 commerce or to lessors under leases of one year or longer
22 executed or in effect at the time of purchase by interstate
23 carriers for hire for use as rolling stock moving in interstate
24 commerce and equipment operated by a telecommunications
25 provider, licensed as a common carrier by the Federal
26 Communications Commission, which is permanently installed in

1 or affixed to aircraft moving in interstate commerce.

2 (12-5) On and after July 1, 2003 and through June 30, 2004,
3 motor vehicles of the second division with a gross vehicle
4 weight in excess of 8,000 pounds that are subject to the
5 commercial distribution fee imposed under Section 3-815.1 of
6 the Illinois Vehicle Code. Beginning on July 1, 2004 and
7 through June 30, 2005, the use in this State of motor vehicles
8 of the second division: (i) with a gross vehicle weight rating
9 in excess of 8,000 pounds; (ii) that are subject to the
10 commercial distribution fee imposed under Section 3-815.1 of
11 the Illinois Vehicle Code; and (iii) that are primarily used
12 for commercial purposes. Through June 30, 2005, this exemption
13 applies to repair and replacement parts added after the initial
14 purchase of such a motor vehicle if that motor vehicle is used
15 in a manner that would qualify for the rolling stock exemption
16 otherwise provided for in this Act. For purposes of this
17 paragraph, "used for commercial purposes" means the
18 transportation of persons or property in furtherance of any
19 commercial or industrial enterprise whether for-hire or not.

20 (13) Proceeds from sales to owners, lessors, or shippers of
21 tangible personal property that is utilized by interstate
22 carriers for hire for use as rolling stock moving in interstate
23 commerce and equipment operated by a telecommunications
24 provider, licensed as a common carrier by the Federal
25 Communications Commission, which is permanently installed in
26 or affixed to aircraft moving in interstate commerce.

1 (14) Machinery and equipment that will be used by the
2 purchaser, or a lessee of the purchaser, primarily in the
3 process of manufacturing or assembling tangible personal
4 property for wholesale or retail sale or lease, whether the
5 sale or lease is made directly by the manufacturer or by some
6 other person, whether the materials used in the process are
7 owned by the manufacturer or some other person, or whether the
8 sale or lease is made apart from or as an incident to the
9 seller's engaging in the service occupation of producing
10 machines, tools, dies, jigs, patterns, gauges, or other similar
11 items of no commercial value on special order for a particular
12 purchaser.

13 (15) Proceeds of mandatory service charges separately
14 stated on customers' bills for purchase and consumption of food
15 and beverages, to the extent that the proceeds of the service
16 charge are in fact turned over as tips or as a substitute for
17 tips to the employees who participate directly in preparing,
18 serving, hosting or cleaning up the food or beverage function
19 with respect to which the service charge is imposed.

20 (16) Petroleum products sold to a purchaser if the seller
21 is prohibited by federal law from charging tax to the
22 purchaser.

23 (17) Tangible personal property sold to a common carrier by
24 rail or motor that receives the physical possession of the
25 property in Illinois and that transports the property, or
26 shares with another common carrier in the transportation of the

1 property, out of Illinois on a standard uniform bill of lading
2 showing the seller of the property as the shipper or consignor
3 of the property to a destination outside Illinois, for use
4 outside Illinois.

5 (18) Legal tender, currency, medallions, or gold or silver
6 coinage issued by the State of Illinois, the government of the
7 United States of America, or the government of any foreign
8 country, and bullion.

9 (19) Until July 1 2003, oil field exploration, drilling,
10 and production equipment, including (i) rigs and parts of rigs,
11 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
12 tubular goods, including casing and drill strings, (iii) pumps
13 and pump-jack units, (iv) storage tanks and flow lines, (v) any
14 individual replacement part for oil field exploration,
15 drilling, and production equipment, and (vi) machinery and
16 equipment purchased for lease; but excluding motor vehicles
17 required to be registered under the Illinois Vehicle Code.

18 (20) Photoprocessing machinery and equipment, including
19 repair and replacement parts, both new and used, including that
20 manufactured on special order, certified by the purchaser to be
21 used primarily for photoprocessing, and including
22 photoprocessing machinery and equipment purchased for lease.

23 (21) Until July 1, 2003, coal exploration, mining,
24 offhighway hauling, processing, maintenance, and reclamation
25 equipment, including replacement parts and equipment, and
26 including equipment purchased for lease, but excluding motor

1 vehicles required to be registered under the Illinois Vehicle
2 Code.

3 (22) Fuel and petroleum products sold to or used by an air
4 carrier, certified by the carrier to be used for consumption,
5 shipment, or storage in the conduct of its business as an air
6 common carrier, for a flight destined for or returning from a
7 location or locations outside the United States without regard
8 to previous or subsequent domestic stopovers.

9 (23) A transaction in which the purchase order is received
10 by a florist who is located outside Illinois, but who has a
11 florist located in Illinois deliver the property to the
12 purchaser or the purchaser's donee in Illinois.

13 (24) Fuel consumed or used in the operation of ships,
14 barges, or vessels that are used primarily in or for the
15 transportation of property or the conveyance of persons for
16 hire on rivers bordering on this State if the fuel is delivered
17 by the seller to the purchaser's barge, ship, or vessel while
18 it is afloat upon that bordering river.

19 (25) Except as provided in item (25-5) of this Section, a
20 motor vehicle sold in this State to a nonresident even though
21 the motor vehicle is delivered to the nonresident in this
22 State, if the motor vehicle is not to be titled in this State,
23 and if a drive-away permit is issued to the motor vehicle as
24 provided in Section 3-603 of the Illinois Vehicle Code or if
25 the nonresident purchaser has vehicle registration plates to
26 transfer to the motor vehicle upon returning to his or her home

1 state. The issuance of the drive-away permit or having the
2 out-of-state registration plates to be transferred is prima
3 facie evidence that the motor vehicle will not be titled in
4 this State.

5 (25-5) The exemption under item (25) does not apply if the
6 state in which the motor vehicle will be titled does not allow
7 a reciprocal exemption for a motor vehicle sold and delivered
8 in that state to an Illinois resident but titled in Illinois.
9 The tax collected under this Act on the sale of a motor vehicle
10 in this State to a resident of another state that does not
11 allow a reciprocal exemption shall be imposed at a rate equal
12 to the state's rate of tax on taxable property in the state in
13 which the purchaser is a resident, except that the tax shall
14 not exceed the tax that would otherwise be imposed under this
15 Act. At the time of the sale, the purchaser shall execute a
16 statement, signed under penalty of perjury, of his or her
17 intent to title the vehicle in the state in which the purchaser
18 is a resident within 30 days after the sale and of the fact of
19 the payment to the State of Illinois of tax in an amount
20 equivalent to the state's rate of tax on taxable property in
21 his or her state of residence and shall submit the statement to
22 the appropriate tax collection agency in his or her state of
23 residence. In addition, the retailer must retain a signed copy
24 of the statement in his or her records. Nothing in this item
25 shall be construed to require the removal of the vehicle from
26 this state following the filing of an intent to title the

1 vehicle in the purchaser's state of residence if the purchaser
2 titles the vehicle in his or her state of residence within 30
3 days after the date of sale. The tax collected under this Act
4 in accordance with this item (25-5) shall be proportionately
5 distributed as if the tax were collected at the 6.25% general
6 rate imposed under this Act.

7 (26) Semen used for artificial insemination of livestock
8 for direct agricultural production.

9 (27) Horses, or interests in horses, registered with and
10 meeting the requirements of any of the Arabian Horse Club
11 Registry of America, Appaloosa Horse Club, American Quarter
12 Horse Association, United States Trotting Association, or
13 Jockey Club, as appropriate, used for purposes of breeding or
14 racing for prizes.

15 (28) Computers and communications equipment utilized for
16 any hospital purpose and equipment used in the diagnosis,
17 analysis, or treatment of hospital patients sold to a lessor
18 who leases the equipment, under a lease of one year or longer
19 executed or in effect at the time of the purchase, to a
20 hospital that has been issued an active tax exemption
21 identification number by the Department under Section 1g of
22 this Act.

23 (29) Personal property sold to a lessor who leases the
24 property, under a lease of one year or longer executed or in
25 effect at the time of the purchase, to a governmental body that
26 has been issued an active tax exemption identification number

1 by the Department under Section 1g of this Act.

2 (30) Beginning with taxable years ending on or after
3 December 31, 1995 and ending with taxable years ending on or
4 before December 31, 2004, personal property that is donated for
5 disaster relief to be used in a State or federally declared
6 disaster area in Illinois or bordering Illinois by a
7 manufacturer or retailer that is registered in this State to a
8 corporation, society, association, foundation, or institution
9 that has been issued a sales tax exemption identification
10 number by the Department that assists victims of the disaster
11 who reside within the declared disaster area.

12 (31) Beginning with taxable years ending on or after
13 December 31, 1995 and ending with taxable years ending on or
14 before December 31, 2004, personal property that is used in the
15 performance of infrastructure repairs in this State, including
16 but not limited to municipal roads and streets, access roads,
17 bridges, sidewalks, waste disposal systems, water and sewer
18 line extensions, water distribution and purification
19 facilities, storm water drainage and retention facilities, and
20 sewage treatment facilities, resulting from a State or
21 federally declared disaster in Illinois or bordering Illinois
22 when such repairs are initiated on facilities located in the
23 declared disaster area within 6 months after the disaster.

24 (32) Beginning July 1, 1999, game or game birds sold at a
25 "game breeding and hunting preserve area" or an "exotic game
26 hunting area" as those terms are used in the Wildlife Code or

1 at a hunting enclosure approved through rules adopted by the
2 Department of Natural Resources. This paragraph is exempt from
3 the provisions of Section 2-70.

4 (33) A motor vehicle, as that term is defined in Section
5 1-146 of the Illinois Vehicle Code, that is donated to a
6 corporation, limited liability company, society, association,
7 foundation, or institution that is determined by the Department
8 to be organized and operated exclusively for educational
9 purposes. For purposes of this exemption, "a corporation,
10 limited liability company, society, association, foundation,
11 or institution organized and operated exclusively for
12 educational purposes" means all tax-supported public schools,
13 private schools that offer systematic instruction in useful
14 branches of learning by methods common to public schools and
15 that compare favorably in their scope and intensity with the
16 course of study presented in tax-supported schools, and
17 vocational or technical schools or institutes organized and
18 operated exclusively to provide a course of study of not less
19 than 6 weeks duration and designed to prepare individuals to
20 follow a trade or to pursue a manual, technical, mechanical,
21 industrial, business, or commercial occupation.

22 (34) Beginning January 1, 2000, personal property,
23 including food, purchased through fundraising events for the
24 benefit of a public or private elementary or secondary school,
25 a group of those schools, or one or more school districts if
26 the events are sponsored by an entity recognized by the school

1 district that consists primarily of volunteers and includes
2 parents and teachers of the school children. This paragraph
3 does not apply to fundraising events (i) for the benefit of
4 private home instruction or (ii) for which the fundraising
5 entity purchases the personal property sold at the events from
6 another individual or entity that sold the property for the
7 purpose of resale by the fundraising entity and that profits
8 from the sale to the fundraising entity. This paragraph is
9 exempt from the provisions of Section 2-70.

10 (35) Beginning January 1, 2000 and through December 31,
11 2001, new or used automatic vending machines that prepare and
12 serve hot food and beverages, including coffee, soup, and other
13 items, and replacement parts for these machines. Beginning
14 January 1, 2002 and through June 30, 2003, machines and parts
15 for machines used in commercial, coin-operated amusement and
16 vending business if a use or occupation tax is paid on the
17 gross receipts derived from the use of the commercial,
18 coin-operated amusement and vending machines. This paragraph
19 is exempt from the provisions of Section 2-70.

20 (35-5) A. Beginning August 23, 2001 and through June 30,
21 2008 ~~2011~~, food for human consumption that is to be consumed
22 off the premises where it is sold (other than alcoholic
23 beverages, soft drinks, and food that has been prepared for
24 immediate consumption) and prescription and nonprescription
25 medicines, drugs, medical appliances, and insulin, urine
26 testing materials, syringes, and needles used by diabetics, for

1 human use, when purchased for use by a person receiving medical
2 assistance under Article 5 of the Illinois Public Aid Code who
3 resides in a licensed long-term care facility, as defined in
4 the Nursing Home Care Act.

5 B. Beginning July 1, 2008, food and food ingredients (other
6 than prepared food), drugs for human use available by
7 prescription only, and over-the-counter-drugs for human use
8 (other than grooming and hygiene products) when purchased for
9 use by a person receiving medical assistance under Article 5 of
10 the Illinois Public Aid Code who resides in a licensed long
11 term care facility, as defined in the Nursing Home Care Act.
12 This subdivision (35-5)(B) is exempt from the provisions of
13 Section 2-70.

14 (36) Beginning August 2, 2001, computers and
15 communications equipment utilized for any hospital purpose and
16 equipment used in the diagnosis, analysis, or treatment of
17 hospital patients sold to a lessor who leases the equipment,
18 under a lease of one year or longer executed or in effect at
19 the time of the purchase, to a hospital that has been issued an
20 active tax exemption identification number by the Department
21 under Section 1g of this Act. This paragraph is exempt from the
22 provisions of Section 2-70.

23 (37) Beginning August 2, 2001, personal property sold to a
24 lessor who leases the property, under a lease of one year or
25 longer executed or in effect at the time of the purchase, to a
26 governmental body that has been issued an active tax exemption

1 identification number by the Department under Section 1g of
2 this Act. This paragraph is exempt from the provisions of
3 Section 2-70.

4 (38) Beginning on January 1, 2002 and through June 30,
5 2011, tangible personal property purchased from an Illinois
6 retailer by a taxpayer engaged in centralized purchasing
7 activities in Illinois who will, upon receipt of the property
8 in Illinois, temporarily store the property in Illinois (i) for
9 the purpose of subsequently transporting it outside this State
10 for use or consumption thereafter solely outside this State or
11 (ii) for the purpose of being processed, fabricated, or
12 manufactured into, attached to, or incorporated into other
13 tangible personal property to be transported outside this State
14 and thereafter used or consumed solely outside this State. The
15 Director of Revenue shall, pursuant to rules adopted in
16 accordance with the Illinois Administrative Procedure Act,
17 issue a permit to any taxpayer in good standing with the
18 Department who is eligible for the exemption under this
19 paragraph (38). The permit issued under this paragraph (38)
20 shall authorize the holder, to the extent and in the manner
21 specified in the rules adopted under this Act, to purchase
22 tangible personal property from a retailer exempt from the
23 taxes imposed by this Act. Taxpayers shall maintain all
24 necessary books and records to substantiate the use and
25 consumption of all such tangible personal property outside of
26 the State of Illinois.

1 (39) On and after July 1, 2008, a "prosthetic device" as
2 defined in Section 1 of this Act. This paragraph is exempt from
3 the provisions of Section 2-70.

4 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,
5 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;
6 94-1002, eff. 7-3-06.)

7 (35 ILCS 120/2-5.1 new)

8 Sec. 2-5.1. Computer software exemptions. Prewritten
9 computer software is exempt from the tax imposed under this Act
10 if the software is transferred by a license meeting the
11 requirements of subsection (a) and the transfer meets the
12 criteria of either subsection (b) or subsection (c).

13 (a) To be exempt under this Section, the prewritten
14 computer software must be transferred by a license meeting the
15 following criteria:

16 (1) the license is evidenced by a written agreement
17 signed by the licensor and the customer;

18 (2) the license restricts the customer's duplication
19 and use of the software;

20 (3) the license prohibits the customer from licensing,
21 sublicensing, or transferring the software to a third party
22 (except to a related party) without the permission and
23 continued control of the licensor;

24 (4) the licensor has a policy of providing another copy
25 at minimal or no charge if the customer loses or damages

1 the software, or of permitting the licensee to make and
2 keep an archival copy, and the policy is either stated in
3 the license agreement, supported by the licensor's books
4 and records, or supported by a notarized statement made
5 under penalties of perjury by the licensor; and

6 (5) the customer must destroy or return all copies of
7 the software to the licensor at the end of the license
8 period. This provision is deemed to be met, in the case of
9 a perpetual license, without being set forth in the license
10 agreement.

11 (b) Prewritten computer software that is transferred by a
12 license that meets the requirements of subsection (a) is exempt
13 from the tax imposed under this Act if it is primarily used
14 directly in the transmitting of, supplying of, furnishing of,
15 or billing for telecommunications that are taxable under the
16 Telecommunications Excise Tax Act.

17 (c) Prewritten computer software that is transferred by a
18 license that meets the requirements of subsection (a) is exempt
19 from the tax imposed under this Act to the extent that it is
20 directly used by a person engaged primarily in the business of
21 manufacturing or assembling tangible personal property for
22 wholesale or retail sale or lease.

23 If prewritten computer software licensed to the licensee is
24 directly used by persons engaged primarily in the business of
25 manufacturing or assembling tangible personal property for
26 wholesale or retail sale or lease and also used by persons not

1 engaged primarily in the business of manufacturing or
2 assembling tangible personal property for wholesale or retail
3 sale or lease, the licensee may provide the licensor with a
4 properly executed percentage certificate of exemption and the
5 license is tax-exempt to the extent the prewritten computer
6 software is directly used by persons engaged primarily in the
7 business of manufacturing or assembling tangible personal
8 property for wholesale or retail sale or lease.

9 For purposes of this subsection (c), the terms
10 "manufacturing" and "assembling" have the same meanings as the
11 terms "manufacturing process" and "assembly process" are
12 defined in Section 2-45 of this Act.

13 (35 ILCS 120/2-5.5)

14 Sec. 2-5.5. Food and drugs sold by not-for-profit
15 organizations; exemption.

16 (a) For sales occurring through June 30, 2008, the ~~The~~
17 Department shall not collect the 1% tax imposed on food for
18 human consumption that is to be consumed off the premises where
19 it is sold (other than alcoholic beverages, soft drinks, and
20 food that has been prepared for immediate consumption) and
21 prescription and nonprescription medicines, drugs, medical
22 appliances, and insulin, urine testing materials, syringes,
23 and needles used by diabetics, for human use from any
24 not-for-profit organization, that sells food in a food
25 distribution program at a price below the retail cost of the

1 food to purchasers who, as a condition of participation in the
2 program, are required to perform community service, located in
3 a county or municipality that notifies the Department, in
4 writing, that the county or municipality does not want the tax
5 to be collected from any of such organizations located in the
6 county or municipality.

7 (b) For sales occurring on and after July 1, 2008, the
8 Department shall not collect the 1% tax imposed on food and
9 food ingredients (other than prepared food), drugs for human
10 use available by prescription only, and over-the-counter-drugs
11 for human use (other the grooming and hygiene products) from
12 any not-for-profit organization, that sells food in a food
13 distribution program at a price below the retail cost of the
14 food to purchasers who, as a condition of participation in the
15 program, are required to perform community service, located in
16 a county or municipality that notifies the Department, in
17 writing, that the county or municipality does not want the tax
18 to be collected from any of such organizations located in the
19 county or municipality. This paragraph is exempt from the
20 provisions of Section 2-70.

21 (Source: P.A. 88-374.)

22 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

23 Sec. 2-10. Rate of tax. Unless otherwise provided in this
24 Section, the tax imposed by this Act is at the rate of 6.25% of
25 gross receipts from sales of tangible personal property made in

1 the course of business.

2 Beginning on January 1, 2008, the tax imposed by subsection
3 (b) of Section 2 of this Act is at the rate of 6.25% of the
4 transfer price from transfers of prewritten computer software
5 made in the course of business.

6 Beginning on July 1, 2000 and through December 31, 2000,
7 with respect to motor fuel, as defined in Section 1.1 of the
8 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
9 the Use Tax Act, the tax is imposed at the rate of 1.25%.

10 Within 14 days after the effective date of this amendatory
11 Act of the 91st General Assembly, each retailer of motor fuel
12 and gasohol shall cause the following notice to be posted in a
13 prominently visible place on each retail dispensing device that
14 is used to dispense motor fuel or gasohol in the State of
15 Illinois: "As of July 1, 2000, the State of Illinois has
16 eliminated the State's share of sales tax on motor fuel and
17 gasohol through December 31, 2000. The price on this pump
18 should reflect the elimination of the tax." The notice shall be
19 printed in bold print on a sign that is no smaller than 4
20 inches by 8 inches. The sign shall be clearly visible to
21 customers. Any retailer who fails to post or maintain a
22 required sign through December 31, 2000 is guilty of a petty
23 offense for which the fine shall be \$500 per day per each
24 retail premises where a violation occurs.

25 With respect to gasohol, as defined in the Use Tax Act, the
26 tax imposed by this Act applies to (i) 70% of the proceeds of

1 sales made on or after January 1, 1990, and before July 1,
2 2003, (ii) 80% of the proceeds of sales made on or after July
3 1, 2003 and on or before December 31, 2013, and (iii) 100% of
4 the proceeds of sales made thereafter. If, at any time,
5 however, the tax under this Act on sales of gasohol, as defined
6 in the Use Tax Act, is imposed at the rate of 1.25%, then the
7 tax imposed by this Act applies to 100% of the proceeds of
8 sales of gasohol made during that time.

9 With respect to majority blended ethanol fuel, as defined
10 in the Use Tax Act, the tax imposed by this Act does not apply
11 to the proceeds of sales made on or after July 1, 2003 and on or
12 before December 31, 2013 but applies to 100% of the proceeds of
13 sales made thereafter.

14 With respect to biodiesel blends, as defined in the Use Tax
15 Act, with no less than 1% and no more than 10% biodiesel, the
16 tax imposed by this Act applies to (i) 80% of the proceeds of
17 sales made on or after July 1, 2003 and on or before December
18 31, 2013 and (ii) 100% of the proceeds of sales made
19 thereafter. If, at any time, however, the tax under this Act on
20 sales of biodiesel blends, as defined in the Use Tax Act, with
21 no less than 1% and no more than 10% biodiesel is imposed at
22 the rate of 1.25%, then the tax imposed by this Act applies to
23 100% of the proceeds of sales of biodiesel blends with no less
24 than 1% and no more than 10% biodiesel made during that time.

25 With respect to 100% biodiesel, as defined in the Use Tax
26 Act, and biodiesel blends, as defined in the Use Tax Act, with

1 more than 10% but no more than 99% biodiesel, the tax imposed
2 by this Act does not apply to the proceeds of sales made on or
3 after July 1, 2003 and on or before December 31, 2013 but
4 applies to 100% of the proceeds of sales made thereafter.

5 Except as otherwise provided in this paragraph, the
6 provisions of this paragraph apply through June 30, 2008. With
7 respect to food for human consumption that is to be consumed
8 off the premises where it is sold (other than alcoholic
9 beverages, soft drinks, and food that has been prepared for
10 immediate consumption) and prescription medicines, and
11 nonprescription medicines (other than, beginning January 1,
12 2008, grooming and hygiene products), drugs (other than,
13 beginning January 1, 2008, grooming and hygiene products),
14 medical appliances, modifications to a motor vehicle for the
15 purpose of rendering it usable by a disabled person, and
16 insulin, urine testing materials, syringes, and needles used by
17 diabetics, for human use, the tax is imposed at the rate of 1%.
18 Through December 31, 2007, for ~~For~~ the purposes of this
19 Section, the term "soft drinks" means any complete, finished,
20 ready-to-use, non-alcoholic drink, whether carbonated or not,
21 including but not limited to soda water, cola, fruit juice,
22 vegetable juice, carbonated water, and all other preparations
23 commonly known as soft drinks of whatever kind or description
24 that are contained in any closed or sealed bottle, can, carton,
25 or container, regardless of size. Through December 31, 2007,
26 "soft ~~soft~~ drinks" does not include coffee, tea, non-carbonated

1 water, infant formula, milk or milk products as defined in the
2 Grade A Pasteurized Milk and Milk Products Act, or drinks
3 containing 50% or more natural fruit or vegetable juice.

4 On and after July 1, 2008, with respect to food and food
5 ingredients (other than prepared food), drugs for human use and
6 available by prescription only, and over-the-counter-drugs for
7 human use (other than grooming and hygiene products), the tax
8 is imposed at the rate of 1%.

9 Through June 30, 2008, notwithstanding ~~Notwithstanding~~ any
10 other provisions of this Act, "food for human consumption that
11 is to be consumed off the premises where it is sold" includes
12 all food sold through a vending machine, except soft drinks and
13 food products that are dispensed hot from a vending machine,
14 regardless of the location of the vending machine.

15 On and after July 1, 2008, notwithstanding any other
16 provisions of this Act, "food and food ingredients" includes
17 all food sold through a vending machine, except soft drinks and
18 food products that are dispensed hot from a vending machine.

19 Beginning July 1, 2008, the Department shall provide
20 sellers with as much advance notice as possible of any tax rate
21 change under this Act and provide notice of any changes in the
22 tax base and amendments to sales and use tax rules and
23 regulations. Any tax rate change under this Act shall only take
24 effect on the first day of a calendar quarter.

25 (Source: P.A. 93-17, eff. 6-11-03.)

1 (35 ILCS 120/2-10.2 new)

2 Sec. 2-10.2. Rounding rule. This Section is effective
3 beginning July 1, 2008. To determine the proper amount of tax
4 due under this Act, the tax computation must be carried to the
5 third decimal place, and the tax must be rounded to a whole
6 cent using a method that rounds up to the next cent whenever
7 the third decimal place is greater than four. The taxpayer may
8 compute the tax due on a transaction on an item or an invoice
9 basis. The rounding rule provided in this Section is to be
10 applied to the aggregated state and local taxes incurred by the
11 taxpayer.

12 (35 ILCS 120/2-10.3 new)

13 Sec. 2-10.3. Electronic database; relief for incorrect
14 data in database. Upon the State of Illinois becoming a member
15 of the Streamlined Sales and Use Tax Agreement and in
16 conformance with the required effective dates set by the
17 governing board of the Streamlined Sales and Use Tax Agreement
18 for the availability and use of the database, the Department
19 shall create and maintain an electronic database of all State
20 and local Retailers' Occupation Tax and Use Tax rates for all
21 jurisdictions levying such taxes in this State. The database
22 shall be provided and maintained in the manner required by
23 Section 305 of the Streamlined Sales and Use Tax Agreement.
24 Taxpayers and Certified Service Providers are relieved from
25 liability to the State and local jurisdictions for paying tax

1 under this Act or any local tax resulting from that taxpayer or
2 Certified Service Provider relying on erroneous data contained
3 in the database (other than an address based database as
4 described in subsection (G) of Section 305 of the Streamlined
5 Sales and Use Tax Agreement or pursuant to the federal Mobile
6 Telecommunications Sourcing Act). Such relief from liability
7 shall not apply when the purchased product is received by the
8 purchaser at the business location of the seller.

9 (35 ILCS 120/2-10.5)

10 Sec. 2-10.5. Direct payment program; purchaser's providing
11 of permit to retailer; retailer relieved of collecting use tax
12 and local retailers' occupation tax reimbursements from
13 purchaser; direct payment of retailers' occupation tax and
14 local retailers' occupation tax by purchaser; direct mail
15 sourcing.

16 (a) Beginning on July 1, 2001 there is established in this
17 State a Direct Payment Program to be administered by the
18 Department. The Department shall issue a Direct Pay Permit to
19 applicants who have been approved to participate in the Direct
20 Payment Program. Each person applying to participate in the
21 Direct Payment Program must demonstrate (1) the applicant's
22 ability to comply with the retailers' occupation tax laws and
23 the use tax laws in effect in this State and that the
24 applicant's accounting system will reflect the proper amount of
25 tax due, (2) that the applicant has a valid business purpose

1 for participating in the Direct Payment Program, and (3) how
2 the applicant's participation in the Direct Payment Program
3 will benefit tax compliance. Application shall be made on forms
4 provided by the Department and shall contain information as the
5 Department may reasonably require. The Department shall
6 approve or deny an applicant within 90 days after the
7 Department's receipt of the application, unless the Department
8 makes a written request for additional information from the
9 applicant.

10 (b) A person who has been approved for the Direct Payment
11 Program and who has been issued a Direct Pay Permit by the
12 Department is relieved of paying tax to a retailer when
13 purchasing tangible personal property for use or consumption,
14 except as provided in subsection (d), by providing that
15 retailer a copy of that Direct Pay Permit. A retailer who
16 accepts a copy of a customer's Direct Pay Permit is relieved of
17 the obligation to remit the tax imposed by this Act on the
18 transaction. References in this Section to "the tax imposed by
19 this Act" include any local occupation taxes administered by
20 the Department that would be incurred on the retail sale.

21 (c) Once the holder of a Direct Pay Permit uses that Permit
22 to relieve the Permit holder from paying tax to a particular
23 retailer, the holder must use its Permit for all purchases,
24 except as provided in subsection (d), from that retailer for so
25 long as the Permit is valid.

26 (d) Direct Pay Permits are not valid and shall not be used

1 for sales or purchases of:

2 (1) food or beverage;

3 (2) tangible personal property required to be titled or
4 registered with an agency of government; or

5 (3) any transactions subject to the Service Occupation
6 Tax Act or Service Use Tax Act.

7 (e) Direct Pay Permits are not assignable and are not
8 transferable. As an illustration, a construction contractor
9 shall not make purchases using a customer's Direct Pay Permit.

10 (f) A Direct Pay Permit is valid until it is revoked by the
11 Department or until the holder notifies the Department in
12 writing that the holder is withdrawing from the Direct Payment
13 Program. A Direct Pay Permit can be revoked by the Department,
14 after notice and hearing, if the holder violates any provision
15 of this Act, any provision of the Illinois Use Tax Act, or any
16 provision of any Act imposing a local retailers' occupation tax
17 administered by the Department.

18 (g) The holder of a Direct Pay Permit who has been relieved
19 of paying tax to a retailer on a purchase for use or
20 consumption by representing to that retailer that it would pay
21 all applicable taxes directly to the Department shall pay those
22 taxes to the Department not later than the 20th day of the
23 month following the month in which the purchase was made.
24 Permit holders making such purchases are subject to all
25 provisions of this Act, and the tax must be reported and paid
26 as retailers' occupation tax in the same manner that the

1 retailer from whom the purchases were made would have reported
2 and paid it, including any local retailers' occupation taxes
3 applicable to that retail sale. Notwithstanding any other
4 provision of this Act, Permit holders shall make all payments
5 to the Department through the use of electronic funds transfer.

6 (h) Direct Mail Sourcing:

7 (1) Notwithstanding the sourcing provisions of Section
8 2 of this Act, a purchaser of direct mail that is not a
9 holder of a direct pay permit shall provide to the seller
10 in conjunction with the purchase either a Direct Mail Form
11 or information to show the jurisdictions to which the
12 direct mail is delivered to recipients. Upon receipt of the
13 Direct Mail Form, the seller is relieved of all obligations
14 to collect, pay, or remit the applicable tax and the
15 purchaser is obligated to pay or remit the applicable tax
16 on a direct pay basis. A Direct Mail Form shall remain in
17 effect for all future sales of direct mail by the seller to
18 the purchaser until it is revoked in writing. Upon receipt
19 of information from the purchaser showing the
20 jurisdictions to which the direct mail is delivered to
21 recipients, the seller shall collect the tax according to
22 the delivery information provided by the purchaser. In the
23 absence of bad faith, the seller is relieved of any further
24 obligation to collect tax on any transaction where the
25 seller has collected tax pursuant to the delivery
26 information provided by the purchaser.

1 (2) If the purchaser of direct mail does not have a
2 direct pay permit and does not provide the seller with
3 either a Direct Mail Form or delivery information, as
4 required by subpart (1) of this subsection (h), the seller
5 shall collect the tax according to part 5 of the sourcing
6 rules contained in subsection (b) of Section 2 of this Act.
7 Nothing in this paragraph shall limit a purchaser's
8 obligation for sales or use tax to any state to which the
9 direct mail is delivered.

10 (3) If a purchaser of direct mail provides the seller
11 with documentation of direct pay authority, the purchaser
12 shall not be required to provide a Direct Mail Form or
13 delivery information to the seller.

14 This subsection (h) is effective July 1, 2008.

15 (Source: P.A. 92-484, eff. 8-23-01.)

16 (35 ILCS 120/2-25) (from Ch. 120, par. 441-25)

17 Sec. 2-25. Computer software; prewritten computer
18 software; upgrades.

19 (a) Before January 1, 2008, for ~~For~~ the purposes of this
20 Act, "computer software" means a set of statements, data, or
21 instructions to be used directly or indirectly in a computer in
22 order to bring about a certain result in any form in which
23 those statements, data, or instructions may be embodied,
24 transmitted, or fixed, by any method now known or hereafter
25 developed, regardless of whether the statements, data, or

1 instructions are capable of being perceived by or communicated
2 to humans, and includes prewritten or canned software that is
3 held for repeated sale or lease, and all associated
4 documentation and materials, if any, whether contained on
5 magnetic tapes, discs, cards, or other devices or media, but
6 does not include software that is adapted to specific
7 individualized requirements of a purchaser, custom-made and
8 modified software designed for a particular or limited use by a
9 purchaser, or software used to operate exempt machinery and
10 equipment used in the process of manufacturing or assembling
11 tangible personal property for wholesale or retail sale or
12 lease.

13 For the purposes of this Act, computer software shall be
14 considered to be tangible personal property.

15 (b) On an after January 1, 2008, "computer software" has
16 the meaning set forth in Section 1 of this Act and includes a
17 set of statements, data, or instructions to be used directly or
18 indirectly in a computer in order to bring about a certain
19 result in any form in which those statements, data, or
20 instructions may be embodied, transmitted, or fixed, by any
21 method now known or hereafter developed, regardless of whether
22 the statements, data, or instructions are capable of being
23 perceived by or communicated to humans, and includes prewritten
24 or canned software that is held for repeated sale, license,
25 lease, or rental, and all associated documentation and
26 materials, if any, whether contained on magnetic tapes, discs,

1 cards, or other devices or media.

2 (c) On and after January 1, 2008, "prewritten computer
3 software" has the meaning set forth in Section 1 of this Act.

4 (d) On and after January 1, 2008, if prewritten computer
5 software is bundled with charges for training, telephone
6 assistance, installation, consulting or other services and is
7 transferred for one non-itemized price, then the tax imposed on
8 the transfer of the prewritten computer software is calculated
9 based on the non-itemized price. If, however, there is a
10 reasonable separately stated charge on an invoice or other
11 statement of the price given to the transferee for the
12 prewritten computer software, then the tax under this Act shall
13 be imposed only on the transfer price for the prewritten
14 computer software.

15 (Source: P.A. 91-51, eff. 6-30-99.)

16 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

17 Sec. 2a. It is unlawful for any person to engage in the
18 business of selling tangible personal property at retail in
19 this State without a certificate of registration from the
20 Department. Application for a certificate of registration
21 shall be made to the Department upon forms furnished by it.
22 Each such application shall be signed and verified and shall
23 state: (1) the name and social security number of the
24 applicant; (2) the address of his principal place of business;
25 (3) the address of the principal place of business from which

1 he engages in the business of selling tangible personal
2 property at retail in this State and the addresses of all other
3 places of business, if any (enumerating such addresses, if any,
4 in a separate list attached to and made a part of the
5 application), from which he engages in the business of selling
6 tangible personal property at retail in this State; (4) the
7 name and address of the person or persons who will be
8 responsible for filing returns and payment of taxes due under
9 this Act; (5) in the case of a corporation, the name, title,
10 and social security number of each corporate officer; (6) in
11 the case of a limited liability company, the name, social
12 security number, and FEIN number of each manager and member;
13 and (7) such other information as the Department may reasonably
14 require. The application shall contain an acceptance of
15 responsibility signed by the person or persons who will be
16 responsible for filing returns and payment of the taxes due
17 under this Act. If the applicant will sell tangible personal
18 property at retail through vending machines, his application to
19 register shall indicate the number of vending machines to be so
20 operated; and thereafter, he shall notify the Department by
21 January 31 of the number of vending machines which such person
22 was using in his business of selling tangible personal property
23 at retail on the preceding December 31.

24 This paragraph is effective beginning July 1, 2008. An
25 applicant for registration that chooses to register under the
26 Streamlined Sales and Use Tax Agreement and that is not

1 otherwise required to be registered under this Act, may
2 register through the Streamlined Sales Tax online registration
3 system. No signature is required for such registration through
4 that system and an agent may register on behalf of an applicant
5 under the procedures set forth under that system and rules
6 adopted by the Department. Applicants for registration that
7 choose to register under the Streamlined Sales and Use Tax
8 Agreement and are required to be registered under this Act may
9 register through the Streamlined Sales Tax online registration
10 system, but will also be required to provide any additional
11 information and documentation required under this Section
12 before that applicant is properly registered in this State. By
13 registering under the Streamlined Sales and Use Tax Agreement,
14 the seller agrees to collect and remit sales and use taxes for
15 all taxable sales into Streamlined Sales Tax Agreement member
16 states, including member states that join after the sellers'
17 registration.

18 The Department may deny a certificate of registration to
19 any applicant if the owner, any partner, any manager or member
20 of a limited liability company, or a corporate officer of the
21 applicant, is or has been the owner, a partner, a manager or
22 member of a limited liability company, or a corporate officer,
23 of another retailer that is in default for moneys due under
24 this Act.

25 Every applicant for a certificate of registration
26 hereunder shall, at the time of filing such application,

1 furnish a bond from a surety company authorized to do business
2 in the State of Illinois, or an irrevocable bank letter of
3 credit or a bond signed by 2 personal sureties who have filed,
4 with the Department, sworn statements disclosing net assets
5 equal to at least 3 times the amount of the bond to be required
6 of such applicant, or a bond secured by an assignment of a bank
7 account or certificate of deposit, stocks or bonds, conditioned
8 upon the applicant paying to the State of Illinois all moneys
9 becoming due under this Act and under any other State tax law
10 or municipal or county tax ordinance or resolution under which
11 the certificate of registration that is issued to the applicant
12 under this Act will permit the applicant to engage in business
13 without registering separately under such other law, ordinance
14 or resolution. The Department shall fix the amount of such
15 security in each case, taking into consideration the amount of
16 money expected to become due from the applicant under this Act
17 and under any other State tax law or municipal or county tax
18 ordinance or resolution under which the certificate of
19 registration that is issued to the applicant under this Act
20 will permit the applicant to engage in business without
21 registering separately under such other law, ordinance or
22 resolution. The amount of security required by the Department
23 shall be such as, in its opinion, will protect the State of
24 Illinois against failure to pay the amount which may become due
25 from the applicant under this Act and under any other State tax
26 law or municipal or county tax ordinance or resolution under

1 which the certificate of registration that is issued to the
2 applicant under this Act will permit the applicant to engage in
3 business without registering separately under such other law,
4 ordinance or resolution, but the amount of the security
5 required by the Department shall not exceed three times the
6 amount of the applicant's average monthly tax liability, or
7 \$50,000.00, whichever amount is lower.

8 No certificate of registration under this Act shall be
9 issued by the Department until the applicant provides the
10 Department with satisfactory security as herein provided for.

11 Upon receipt of the application for certificate of
12 registration in proper form, and upon approval by the
13 Department of the security furnished by the applicant, the
14 Department shall issue to such applicant a certificate of
15 registration which shall permit the person to whom it is issued
16 to engage in the business of selling tangible personal property
17 at retail in this State. The certificate of registration shall
18 be conspicuously displayed at the place of business which the
19 person so registered states in his application to be the
20 principal place of business from which he engages in the
21 business of selling tangible personal property at retail in
22 this State.

23 No certificate of registration issued to a taxpayer who
24 files returns required by this Act on a monthly basis shall be
25 valid after the expiration of 5 years from the date of its
26 issuance or last renewal. The expiration date of a

1 sub-certificate of registration shall be that of the
2 certificate of registration to which the sub-certificate
3 relates. A certificate of registration shall automatically be
4 renewed, subject to revocation as provided by this Act, for an
5 additional 5 years from the date of its expiration unless
6 otherwise notified by the Department as provided by this
7 paragraph. Where a taxpayer to whom a certificate of
8 registration is issued under this Act is in default to the
9 State of Illinois for delinquent returns or for moneys due
10 under this Act or any other State tax law or municipal or
11 county ordinance administered or enforced by the Department,
12 the Department shall, not less than 120 days before the
13 expiration date of such certificate of registration, give
14 notice to the taxpayer to whom the certificate was issued of
15 the account period of the delinquent returns, the amount of
16 tax, penalty and interest due and owing from the taxpayer, and
17 that the certificate of registration shall not be automatically
18 renewed upon its expiration date unless the taxpayer, on or
19 before the date of expiration, has filed and paid the
20 delinquent returns or paid the defaulted amount in full. A
21 taxpayer to whom such a notice is issued shall be deemed an
22 applicant for renewal. The Department shall promulgate
23 regulations establishing procedures for taxpayers who file
24 returns on a monthly basis but desire and qualify to change to
25 a quarterly or yearly filing basis and will no longer be
26 subject to renewal under this Section, and for taxpayers who

1 file returns on a yearly or quarterly basis but who desire or
2 are required to change to a monthly filing basis and will be
3 subject to renewal under this Section.

4 The Department may in its discretion approve renewal by an
5 applicant who is in default if, at the time of application for
6 renewal, the applicant files all of the delinquent returns or
7 pays to the Department such percentage of the defaulted amount
8 as may be determined by the Department and agrees in writing to
9 waive all limitations upon the Department for collection of the
10 remaining defaulted amount to the Department over a period not
11 to exceed 5 years from the date of renewal of the certificate;
12 however, no renewal application submitted by an applicant who
13 is in default shall be approved if the immediately preceding
14 renewal by the applicant was conditioned upon the installment
15 payment agreement described in this Section. The payment
16 agreement herein provided for shall be in addition to and not
17 in lieu of the security required by this Section of a taxpayer
18 who is no longer considered a prior continuous compliance
19 taxpayer. The execution of the payment agreement as provided in
20 this Act shall not toll the accrual of interest at the
21 statutory rate.

22 A certificate of registration issued under this Act more
23 than 5 years before the effective date of this amendatory Act
24 of 1989 shall expire and be subject to the renewal provisions
25 of this Section on the next anniversary of the date of issuance
26 of such certificate which occurs more than 6 months after the

1 effective date of this amendatory Act of 1989. A certificate of
2 registration issued less than 5 years before the effective date
3 of this amendatory Act of 1989 shall expire and be subject to
4 the renewal provisions of this Section on the 5th anniversary
5 of the issuance of the certificate.

6 If the person so registered states that he operates other
7 places of business from which he engages in the business of
8 selling tangible personal property at retail in this State, the
9 Department shall furnish him with a sub-certificate of
10 registration for each such place of business, and the applicant
11 shall display the appropriate sub-certificate of registration
12 at each such place of business. All sub-certificates of
13 registration shall bear the same registration number as that
14 appearing upon the certificate of registration to which such
15 sub-certificates relate.

16 If the applicant will sell tangible personal property at
17 retail through vending machines, the Department shall furnish
18 him with a sub-certificate of registration for each such
19 vending machine, and the applicant shall display the
20 appropriate sub-certificate of registration on each such
21 vending machine by attaching the sub-certificate of
22 registration to a conspicuous part of such vending machine.

23 Where the same person engages in 2 or more businesses of
24 selling tangible personal property at retail in this State,
25 which businesses are substantially different in character or
26 engaged in under different trade names or engaged in under

1 other substantially dissimilar circumstances (so that it is
2 more practicable, from an accounting, auditing or bookkeeping
3 standpoint, for such businesses to be separately registered),
4 the Department may require or permit such person (subject to
5 the same requirements concerning the furnishing of security as
6 those that are provided for hereinbefore in this Section as to
7 each application for a certificate of registration) to apply
8 for and obtain a separate certificate of registration for each
9 such business or for any of such businesses, under a single
10 certificate of registration supplemented by related
11 sub-certificates of registration.

12 Any person who is registered under the "Retailers'
13 Occupation Tax Act" as of March 8, 1963, and who, during the
14 3-year period immediately prior to March 8, 1963, or during a
15 continuous 3-year period part of which passed immediately
16 before and the remainder of which passes immediately after
17 March 8, 1963, has been so registered continuously and who is
18 determined by the Department not to have been either delinquent
19 or deficient in the payment of tax liability during that period
20 under this Act or under any other State tax law or municipal or
21 county tax ordinance or resolution under which the certificate
22 of registration that is issued to the registrant under this Act
23 will permit the registrant to engage in business without
24 registering separately under such other law, ordinance or
25 resolution, shall be considered to be a Prior Continuous
26 Compliance taxpayer. Also any taxpayer who has, as verified by

1 the Department, faithfully and continuously complied with the
2 condition of his bond or other security under the provisions of
3 this Act for a period of 3 consecutive years shall be
4 considered to be a Prior Continuous Compliance taxpayer.

5 Every Prior Continuous Compliance taxpayer shall be exempt
6 from all requirements under this Act concerning the furnishing
7 of security as a condition precedent to his being authorized to
8 engage in the business of selling tangible personal property at
9 retail in this State. This exemption shall continue for each
10 such taxpayer until such time as he may be determined by the
11 Department to be delinquent in the filing of any returns, or is
12 determined by the Department (either through the Department's
13 issuance of a final assessment which has become final under the
14 Act, or by the taxpayer's filing of a return which admits tax
15 that is not paid to be due) to be delinquent or deficient in
16 the paying of any tax under this Act or under any other State
17 tax law or municipal or county tax ordinance or resolution
18 under which the certificate of registration that is issued to
19 the registrant under this Act will permit the registrant to
20 engage in business without registering separately under such
21 other law, ordinance or resolution, at which time that taxpayer
22 shall become subject to all the financial responsibility
23 requirements of this Act and, as a condition of being allowed
24 to continue to engage in the business of selling tangible
25 personal property at retail, shall be required to post bond or
26 other acceptable security with the Department covering

1 liability which such taxpayer may thereafter incur. Any
2 taxpayer who fails to pay an admitted or established liability
3 under this Act may also be required to post bond or other
4 acceptable security with this Department guaranteeing the
5 payment of such admitted or established liability.

6 No certificate of registration shall be issued to any
7 person who is in default to the State of Illinois for moneys
8 due under this Act or under any other State tax law or
9 municipal or county tax ordinance or resolution under which the
10 certificate of registration that is issued to the applicant
11 under this Act will permit the applicant to engage in business
12 without registering separately under such other law, ordinance
13 or resolution.

14 Any person aggrieved by any decision of the Department
15 under this Section may, within 20 days after notice of such
16 decision, protest and request a hearing, whereupon the
17 Department shall give notice to such person of the time and
18 place fixed for such hearing and shall hold a hearing in
19 conformity with the provisions of this Act and then issue its
20 final administrative decision in the matter to such person. In
21 the absence of such a protest within 20 days, the Department's
22 decision shall become final without any further determination
23 being made or notice given.

24 With respect to security other than bonds (upon which the
25 Department may sue in the event of a forfeiture), if the
26 taxpayer fails to pay, when due, any amount whose payment such

1 security guarantees, the Department shall, after such
2 liability is admitted by the taxpayer or established by the
3 Department through the issuance of a final assessment that has
4 become final under the law, convert the security which that
5 taxpayer has furnished into money for the State, after first
6 giving the taxpayer at least 10 days' written notice, by
7 registered or certified mail, to pay the liability or forfeit
8 such security to the Department. If the security consists of
9 stocks or bonds or other securities which are listed on a
10 public exchange, the Department shall sell such securities
11 through such public exchange. If the security consists of an
12 irrevocable bank letter of credit, the Department shall convert
13 the security in the manner provided for in the Uniform
14 Commercial Code. If the security consists of a bank certificate
15 of deposit, the Department shall convert the security into
16 money by demanding and collecting the amount of such bank
17 certificate of deposit from the bank which issued such
18 certificate. If the security consists of a type of stocks or
19 other securities which are not listed on a public exchange, the
20 Department shall sell such security to the highest and best
21 bidder after giving at least 10 days' notice of the date, time
22 and place of the intended sale by publication in the "State
23 Official Newspaper". If the Department realizes more than the
24 amount of such liability from the security, plus the expenses
25 incurred by the Department in converting the security into
26 money, the Department shall pay such excess to the taxpayer who

1 furnished such security, and the balance shall be paid into the
2 State Treasury.

3 The Department shall discharge any surety and shall release
4 and return any security deposited, assigned, pledged or
5 otherwise provided to it by a taxpayer under this Section
6 within 30 days after:

7 (1) such taxpayer becomes a Prior Continuous
8 Compliance taxpayer; or

9 (2) such taxpayer has ceased to collect receipts on
10 which he is required to remit tax to the Department, has
11 filed a final tax return, and has paid to the Department an
12 amount sufficient to discharge his remaining tax
13 liability, as determined by the Department, under this Act
14 and under every other State tax law or municipal or county
15 tax ordinance or resolution under which the certificate of
16 registration issued under this Act permits the registrant
17 to engage in business without registering separately under
18 such other law, ordinance or resolution. The Department
19 shall make a final determination of the taxpayer's
20 outstanding tax liability as expeditiously as possible
21 after his final tax return has been filed; if the
22 Department cannot make such final determination within 45
23 days after receiving the final tax return, within such
24 period it shall so notify the taxpayer, stating its reasons
25 therefor.

26 (Source: P.A. 90-491, eff. 1-1-98; 91-357, eff. 7-29-99.)

1 (35 ILCS 120/3) (from Ch. 120, par. 442)

2 Sec. 3. Except as provided in this Section, on or before
3 the twentieth day of each calendar month, every person engaged
4 in the business of selling tangible personal property at retail
5 in this State, or of transferring prewritten computer software
6 in this State, during the preceding calendar month shall file a
7 return with the Department, stating:

8 1. The name of the seller or transferor;

9 2. His residence address and the address of his
10 principal place of business and the address of the
11 principal place of business (if that is a different
12 address) from which he engages in the business of selling
13 tangible personal property at retail or engages in the
14 business of transferring prewritten computer software in
15 this State;

16 3. Total amount of receipts received by him during the
17 preceding calendar month or quarter, as the case may be,
18 from sales of tangible personal property or transfers
19 prewritten computer software, and from services furnished,
20 by him during such preceding calendar month or quarter;

21 4. Total amount received by him during the preceding
22 calendar month or quarter on charge and time sales of
23 tangible personal property or transfers of prewritten
24 computer software, and from services furnished, by him
25 prior to the month or quarter for which the return is

1 filed;

2 5. Deductions allowed by law;

3 6. Gross receipts which were received by him during the
4 preceding calendar month or quarter and upon the basis of
5 which the tax is imposed;

6 7. The amount of credit provided in Section 2d of this
7 Act;

8 8. The amount of tax due;

9 9. The signature of the taxpayer; and

10 10. Such other reasonable information as the
11 Department may require.

12 If a taxpayer fails to sign a return within 30 days after
13 the proper notice and demand for signature by the Department,
14 the return shall be considered valid and any amount shown to be
15 due on the return shall be deemed assessed.

16 The provisions of this paragraph are effective beginning
17 July 1, 2008. Sellers that have chosen to be Model 1 sellers
18 are not required to file returns and remit tax to the
19 Department for sales made through a Certified Service Provider.
20 Each Certified Service Provider for a Model I seller shall file
21 returns and pay the appropriate amount of tax to the Department
22 in the same manner as other taxpayers that are registered under
23 the Streamlined Sales and Use Tax Agreement. In lieu of the
24 return described in this Section, taxpayers, other than Model 1
25 taxpayers, that have chosen to be registered under the
26 Streamlined Sales and Use Tax Agreement and Certified Service

1 Providers shall submit returns in a simplified format that
2 conforms to the requirements set forth by the Governing Board
3 of the Streamlined Sales and Use Tax Agreement. Such taxpayers
4 and Certified Service Providers shall file additional
5 informational returns developed by the Department every 6
6 months under the staggered system set forth by the Governing
7 Board of the Streamlined Sales and Use Tax Agreement. The
8 Department may require by rule that the simplified returns and
9 informational returns be filed in an electronic format. The
10 Department shall by regulation provide guidance to allow a
11 Certified Service Provider a deduction for bad debts as is
12 allowed to taxpayers that report and remit tax directly to the
13 Department, consistent with Section 166 of the Internal Revenue
14 Code and such other adjustments as the Department may require
15 in regulation.

16 Each return shall be accompanied by the statement of
17 prepaid tax issued pursuant to Section 2e for which credit is
18 claimed.

19 Prior to October 1, 2003, and on and after September 1,
20 2004 a retailer may accept a Manufacturer's Purchase Credit
21 certification from a purchaser in satisfaction of Use Tax as
22 provided in Section 3-85 of the Use Tax Act if the purchaser
23 provides the appropriate documentation as required by Section
24 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit
25 certification, accepted by a retailer prior to October 1, 2003
26 and on and after September 1, 2004 as provided in Section 3-85

1 of the Use Tax Act, may be used by that retailer to satisfy
2 Retailers' Occupation Tax liability in the amount claimed in
3 the certification, not to exceed 6.25% of the receipts subject
4 to tax from a qualifying purchase. A Manufacturer's Purchase
5 Credit reported on any original or amended return filed under
6 this Act after October 20, 2003 for reporting periods prior to
7 September 1, 2004 shall be disallowed. Manufacturer's
8 Purchaser Credit reported on annual returns due on or after
9 January 1, 2005 will be disallowed for periods prior to
10 September 1, 2004. No Manufacturer's Purchase Credit may be
11 used after September 30, 2003 through August 31, 2004 to
12 satisfy any tax liability imposed under this Act, including any
13 audit liability.

14 The Department may require returns to be filed on a
15 quarterly basis. If so required, a return for each calendar
16 quarter shall be filed on or before the twentieth day of the
17 calendar month following the end of such calendar quarter. The
18 taxpayer shall also file a return with the Department for each
19 of the first two months of each calendar quarter, on or before
20 the twentieth day of the following calendar month, stating:

21 1. The name of the seller or transferor;

22 2. The address of the principal place of business from
23 which he engages in the business of selling tangible
24 personal property at retail or engages in the business of
25 transferring prewritten computer software in this State;

26 3. The total amount of taxable receipts received by him

1 during the preceding calendar month from sales of tangible
2 personal property or transfers of prewritten computer
3 software by him during such preceding calendar month,
4 including receipts from charge and time sales, but less all
5 deductions allowed by law;

6 4. The amount of credit provided in Section 2d of this
7 Act;

8 5. The amount of tax due; and

9 6. Such other reasonable information as the Department
10 may require.

11 Beginning on October 1, 2003, any person who is not a
12 licensed distributor, importing distributor, or manufacturer,
13 as defined in the Liquor Control Act of 1934, but is engaged in
14 the business of selling, at retail, alcoholic liquor shall file
15 a statement with the Department of Revenue, in a format and at
16 a time prescribed by the Department, showing the total amount
17 paid for alcoholic liquor purchased during the preceding month
18 and such other information as is reasonably required by the
19 Department. The Department may adopt rules to require that this
20 statement be filed in an electronic or telephonic format. Such
21 rules may provide for exceptions from the filing requirements
22 of this paragraph. For the purposes of this paragraph, the term
23 "alcoholic liquor" shall have the meaning prescribed in the
24 Liquor Control Act of 1934.

25 Beginning on October 1, 2003, every distributor, importing
26 distributor, and manufacturer of alcoholic liquor as defined in

1 the Liquor Control Act of 1934, shall file a statement with the
2 Department of Revenue, no later than the 10th day of the month
3 for the preceding month during which transactions occurred, by
4 electronic means, showing the total amount of gross receipts
5 from the sale of alcoholic liquor sold or distributed during
6 the preceding month to purchasers; identifying the purchaser to
7 whom it was sold or distributed; the purchaser's tax
8 registration number; and such other information reasonably
9 required by the Department. A distributor, importing
10 distributor, or manufacturer of alcoholic liquor must
11 personally deliver, mail, or provide by electronic means to
12 each retailer listed on the monthly statement a report
13 containing a cumulative total of that distributor's, importing
14 distributor's, or manufacturer's total sales of alcoholic
15 liquor to that retailer no later than the 10th day of the month
16 for the preceding month during which the transaction occurred.
17 The distributor, importing distributor, or manufacturer shall
18 notify the retailer as to the method by which the distributor,
19 importing distributor, or manufacturer will provide the sales
20 information. If the retailer is unable to receive the sales
21 information by electronic means, the distributor, importing
22 distributor, or manufacturer shall furnish the sales
23 information by personal delivery or by mail. For purposes of
24 this paragraph, the term "electronic means" includes, but is
25 not limited to, the use of a secure Internet website, e-mail,
26 or facsimile.

1 If a total amount of less than \$1 is payable, refundable or
2 creditable, such amount shall be disregarded if it is less than
3 50 cents and shall be increased to \$1 if it is 50 cents or more.

4 Beginning October 1, 1993, a taxpayer who has an average
5 monthly tax liability of \$150,000 or more shall make all
6 payments required by rules of the Department by electronic
7 funds transfer. Beginning October 1, 1994, a taxpayer who has
8 an average monthly tax liability of \$100,000 or more shall make
9 all payments required by rules of the Department by electronic
10 funds transfer. Beginning October 1, 1995, a taxpayer who has
11 an average monthly tax liability of \$50,000 or more shall make
12 all payments required by rules of the Department by electronic
13 funds transfer. Beginning October 1, 2000, a taxpayer who has
14 an annual tax liability of \$200,000 or more shall make all
15 payments required by rules of the Department by electronic
16 funds transfer. The term "annual tax liability" shall be the
17 sum of the taxpayer's liabilities under this Act, and under all
18 other State and local occupation and use tax laws administered
19 by the Department, for the immediately preceding calendar year.
20 The term "average monthly tax liability" shall be the sum of
21 the taxpayer's liabilities under this Act, and under all other
22 State and local occupation and use tax laws administered by the
23 Department, for the immediately preceding calendar year
24 divided by 12. Beginning on October 1, 2002, a taxpayer who has
25 a tax liability in the amount set forth in subsection (b) of
26 Section 2505-210 of the Department of Revenue Law shall make

1 all payments required by rules of the Department by electronic
2 funds transfer. Beginning July 1, 2008, in addition to the
3 requirements of this Section, taxpayers that have chosen to be
4 registered under the Streamlined Sales and Use Tax Agreement
5 and any Certified Service Providers shall make all payments of
6 tax imposed under this Act through the use of electronic funds
7 transfer.

8 Before August 1 of each year beginning in 1993, the
9 Department shall notify all taxpayers required to make payments
10 by electronic funds transfer. All taxpayers required to make
11 payments by electronic funds transfer shall make those payments
12 for a minimum of one year beginning on October 1.

13 Any taxpayer not required to make payments by electronic
14 funds transfer may make payments by electronic funds transfer
15 with the permission of the Department.

16 All taxpayers required to make payment by electronic funds
17 transfer and any taxpayers authorized to voluntarily make
18 payments by electronic funds transfer shall make those payments
19 in the manner authorized by the Department.

20 The Department shall adopt such rules as are necessary to
21 effectuate a program of electronic funds transfer and the
22 requirements of this Section.

23 Any amount which is required to be shown or reported on any
24 return or other document under this Act shall, if such amount
25 is not a whole-dollar amount, be increased to the nearest
26 whole-dollar amount in any case where the fractional part of a

1 dollar is 50 cents or more, and decreased to the nearest
2 whole-dollar amount where the fractional part of a dollar is
3 less than 50 cents.

4 If the retailer is otherwise required to file a monthly
5 return and if the retailer's average monthly tax liability to
6 the Department does not exceed \$200, the Department may
7 authorize his returns to be filed on a quarter annual basis,
8 with the return for January, February and March of a given year
9 being due by April 20 of such year; with the return for April,
10 May and June of a given year being due by July 20 of such year;
11 with the return for July, August and September of a given year
12 being due by October 20 of such year, and with the return for
13 October, November and December of a given year being due by
14 January 20 of the following year.

15 If the retailer is otherwise required to file a monthly or
16 quarterly return and if the retailer's average monthly tax
17 liability with the Department does not exceed \$50, the
18 Department may authorize his returns to be filed on an annual
19 basis, with the return for a given year being due by January 20
20 of the following year.

21 Such quarter annual and annual returns, as to form and
22 substance, shall be subject to the same requirements as monthly
23 returns.

24 Notwithstanding any other provision in this Act concerning
25 the time within which a retailer may file his return, in the
26 case of any retailer who ceases to engage in a kind of business

1 which makes him responsible for filing returns under this Act,
2 such retailer shall file a final return under this Act with the
3 Department not more than one month after discontinuing such
4 business.

5 Where the same person has more than one business registered
6 with the Department under separate registrations under this
7 Act, such person may not file each return that is due as a
8 single return covering all such registered businesses, but
9 shall file separate returns for each such registered business.

10 In addition, with respect to motor vehicles, watercraft,
11 aircraft, and trailers that are required to be registered with
12 an agency of this State, every retailer selling this kind of
13 tangible personal property shall file, with the Department,
14 upon a form to be prescribed and supplied by the Department, a
15 separate return for each such item of tangible personal
16 property which the retailer sells, except that if, in the same
17 transaction, (i) a retailer of aircraft, watercraft, motor
18 vehicles or trailers transfers more than one aircraft,
19 watercraft, motor vehicle or trailer to another aircraft,
20 watercraft, motor vehicle retailer or trailer retailer for the
21 purpose of resale or (ii) a retailer of aircraft, watercraft,
22 motor vehicles, or trailers transfers more than one aircraft,
23 watercraft, motor vehicle, or trailer to a purchaser for use as
24 a qualifying rolling stock as provided in Section 2-5 of this
25 Act, then that seller may report the transfer of all aircraft,
26 watercraft, motor vehicles or trailers involved in that

1 transaction to the Department on the same uniform
2 invoice-transaction reporting return form. For purposes of
3 this Section, "watercraft" means a Class 2, Class 3, or Class 4
4 watercraft as defined in Section 3-2 of the Boat Registration
5 and Safety Act, a personal watercraft, or any boat equipped
6 with an inboard motor.

7 Any retailer who sells only motor vehicles, watercraft,
8 aircraft, or trailers that are required to be registered with
9 an agency of this State, so that all retailers' occupation tax
10 liability is required to be reported, and is reported, on such
11 transaction reporting returns and who is not otherwise required
12 to file monthly or quarterly returns, need not file monthly or
13 quarterly returns. However, those retailers shall be required
14 to file returns on an annual basis.

15 The transaction reporting return, in the case of motor
16 vehicles or trailers that are required to be registered with an
17 agency of this State, shall be the same document as the Uniform
18 Invoice referred to in Section 5-402 of The Illinois Vehicle
19 Code and must show the name and address of the seller; the name
20 and address of the purchaser; the amount of the selling price
21 including the amount allowed by the retailer for traded-in
22 property, if any; the amount allowed by the retailer for the
23 traded-in tangible personal property, if any, to the extent to
24 which Section 1 of this Act allows an exemption for the value
25 of traded-in property; the balance payable after deducting such
26 trade-in allowance from the total selling price; the amount of

1 tax due from the retailer with respect to such transaction; the
2 amount of tax collected from the purchaser by the retailer on
3 such transaction (or satisfactory evidence that such tax is not
4 due in that particular instance, if that is claimed to be the
5 fact); the place and date of the sale; a sufficient
6 identification of the property sold; such other information as
7 is required in Section 5-402 of The Illinois Vehicle Code, and
8 such other information as the Department may reasonably
9 require.

10 The transaction reporting return in the case of watercraft
11 or aircraft must show the name and address of the seller; the
12 name and address of the purchaser; the amount of the selling
13 price including the amount allowed by the retailer for
14 traded-in property, if any; the amount allowed by the retailer
15 for the traded-in tangible personal property, if any, to the
16 extent to which Section 1 of this Act allows an exemption for
17 the value of traded-in property; the balance payable after
18 deducting such trade-in allowance from the total selling price;
19 the amount of tax due from the retailer with respect to such
20 transaction; the amount of tax collected from the purchaser by
21 the retailer on such transaction (or satisfactory evidence that
22 such tax is not due in that particular instance, if that is
23 claimed to be the fact); the place and date of the sale, a
24 sufficient identification of the property sold, and such other
25 information as the Department may reasonably require.

26 Such transaction reporting return shall be filed not later

1 than 20 days after the day of delivery of the item that is
2 being sold, but may be filed by the retailer at any time sooner
3 than that if he chooses to do so. The transaction reporting
4 return and tax remittance or proof of exemption from the
5 Illinois use tax may be transmitted to the Department by way of
6 the State agency with which, or State officer with whom the
7 tangible personal property must be titled or registered (if
8 titling or registration is required) if the Department and such
9 agency or State officer determine that this procedure will
10 expedite the processing of applications for title or
11 registration.

12 With each such transaction reporting return, the retailer
13 shall remit the proper amount of tax due (or shall submit
14 satisfactory evidence that the sale is not taxable if that is
15 the case), to the Department or its agents, whereupon the
16 Department shall issue, in the purchaser's name, a use tax
17 receipt (or a certificate of exemption if the Department is
18 satisfied that the particular sale is tax exempt) which such
19 purchaser may submit to the agency with which, or State officer
20 with whom, he must title or register the tangible personal
21 property that is involved (if titling or registration is
22 required) in support of such purchaser's application for an
23 Illinois certificate or other evidence of title or registration
24 to such tangible personal property.

25 No retailer's failure or refusal to remit tax under this
26 Act precludes a user, who has paid the proper tax to the

1 retailer, from obtaining his certificate of title or other
2 evidence of title or registration (if titling or registration
3 is required) upon satisfying the Department that such user has
4 paid the proper tax (if tax is due) to the retailer. The
5 Department shall adopt appropriate rules to carry out the
6 mandate of this paragraph.

7 If the user who would otherwise pay tax to the retailer
8 wants the transaction reporting return filed and the payment of
9 the tax or proof of exemption made to the Department before the
10 retailer is willing to take these actions and such user has not
11 paid the tax to the retailer, such user may certify to the fact
12 of such delay by the retailer and may (upon the Department
13 being satisfied of the truth of such certification) transmit
14 the information required by the transaction reporting return
15 and the remittance for tax or proof of exemption directly to
16 the Department and obtain his tax receipt or exemption
17 determination, in which event the transaction reporting return
18 and tax remittance (if a tax payment was required) shall be
19 credited by the Department to the proper retailer's account
20 with the Department, but without the 2.1% or 1.75% discount
21 provided for in this Section being allowed. When the user pays
22 the tax directly to the Department, he shall pay the tax in the
23 same amount and in the same form in which it would be remitted
24 if the tax had been remitted to the Department by the retailer.

25 Refunds made by the seller during the preceding return
26 period to purchasers, on account of tangible personal property

1 returned to the seller, shall be allowed as a deduction under
2 subdivision 5 of his monthly or quarterly return, as the case
3 may be, in case the seller had theretofore included the
4 receipts from the sale of such tangible personal property in a
5 return filed by him and had paid the tax imposed by this Act
6 with respect to such receipts.

7 Where the seller is a corporation, the return filed on
8 behalf of such corporation shall be signed by the president,
9 vice-president, secretary or treasurer or by the properly
10 accredited agent of such corporation.

11 Where the seller is a limited liability company, the return
12 filed on behalf of the limited liability company shall be
13 signed by a manager, member, or properly accredited agent of
14 the limited liability company.

15 Except as provided in this Section, the retailer filing the
16 return under this Section shall, at the time of filing such
17 return, pay to the Department the amount of tax imposed by this
18 Act less a discount of 2.1% prior to January 1, 1990 and 1.75%
19 on and after January 1, 1990, or \$5 per calendar year,
20 whichever is greater, which is allowed to reimburse the
21 retailer for the expenses incurred in keeping records,
22 preparing and filing returns, remitting the tax and supplying
23 data to the Department on request. Any prepayment made pursuant
24 to Section 2d of this Act shall be included in the amount on
25 which such 2.1% or 1.75% discount is computed. In the case of
26 retailers who report and pay the tax on a transaction by

1 transaction basis, as provided in this Section, such discount
2 shall be taken with each such tax remittance instead of when
3 such retailer files his periodic return.

4 On and after July 1, 2008, if the taxpayer's average
5 monthly tax liability to the Department under this Act, the Use
6 Tax Act, the Service Occupation Tax Act, and the Service Use
7 Tax Act was greater than \$30,000 during the preceding calendar
8 year, he shall file a return with the Department each month by
9 the 20th day of the month next following the month during which
10 such tax liability is incurred and shall make payment to the
11 Department on or before the 7th, 15th, 22nd and last day of the
12 month during which such liability is incurred. Before October
13 1, 2000, if the taxpayer's average monthly tax liability to the
14 Department under this Act, the Use Tax Act, the Service
15 Occupation Tax Act, and the Service Use Tax Act, excluding any
16 liability for prepaid sales tax to be remitted in accordance
17 with Section 2d of this Act, was \$10,000 or more during the
18 preceding 4 complete calendar quarters, he shall file a return
19 with the Department each month by the 20th day of the month
20 next following the month during which such tax liability is
21 incurred and shall make payments to the Department on or before
22 the 7th, 15th, 22nd and last day of the month during which such
23 liability is incurred. On and after October 1, 2000 through
24 June 30, 2008, if the taxpayer's average monthly tax liability
25 to the Department under this Act, the Use Tax Act, the Service
26 Occupation Tax Act, and the Service Use Tax Act, excluding any

1 liability for prepaid sales tax to be remitted in accordance
2 with Section 2d of this Act, was \$20,000 or more during the
3 preceding 4 complete calendar quarters, he shall file a return
4 with the Department each month by the 20th day of the month
5 next following the month during which such tax liability is
6 incurred and shall make payment to the Department on or before
7 the 7th, 15th, 22nd and last day of the month during which such
8 liability is incurred. If the month during which such tax
9 liability is incurred began prior to January 1, 1985, each
10 payment shall be in an amount equal to 1/4 of the taxpayer's
11 actual liability for the month or an amount set by the
12 Department not to exceed 1/4 of the average monthly liability
13 of the taxpayer to the Department for the preceding 4 complete
14 calendar quarters (excluding the month of highest liability and
15 the month of lowest liability in such 4 quarter period). If the
16 month during which such tax liability is incurred begins on or
17 after January 1, 1985 and prior to January 1, 1987, each
18 payment shall be in an amount equal to 22.5% of the taxpayer's
19 actual liability for the month or 27.5% of the taxpayer's
20 liability for the same calendar month of the preceding year. If
21 the month during which such tax liability is incurred begins on
22 or after January 1, 1987 and prior to January 1, 1988, each
23 payment shall be in an amount equal to 22.5% of the taxpayer's
24 actual liability for the month or 26.25% of the taxpayer's
25 liability for the same calendar month of the preceding year. If
26 the month during which such tax liability is incurred begins on

1 or after January 1, 1988, and prior to January 1, 1989, or
2 begins on or after January 1, 1996, each payment shall be in an
3 amount equal to 22.5% of the taxpayer's actual liability for
4 the month or 25% of the taxpayer's liability for the same
5 calendar month of the preceding year. If the month during which
6 such tax liability is incurred begins on or after January 1,
7 1989, and prior to January 1, 1996, each payment shall be in an
8 amount equal to 22.5% of the taxpayer's actual liability for
9 the month or 25% of the taxpayer's liability for the same
10 calendar month of the preceding year or 100% of the taxpayer's
11 actual liability for the quarter monthly reporting period. The
12 amount of such quarter monthly payments shall be credited
13 against the final tax liability of the taxpayer's return for
14 that month. Before October 1, 2000, once applicable, the
15 requirement of the making of quarter monthly payments to the
16 Department by taxpayers having an average monthly tax liability
17 of \$10,000 or more as determined in the manner provided above
18 shall continue until such taxpayer's average monthly liability
19 to the Department during the preceding 4 complete calendar
20 quarters (excluding the month of highest liability and the
21 month of lowest liability) is less than \$9,000, or until such
22 taxpayer's average monthly liability to the Department as
23 computed for each calendar quarter of the 4 preceding complete
24 calendar quarter period is less than \$10,000. However, if a
25 taxpayer can show the Department that a substantial change in
26 the taxpayer's business has occurred which causes the taxpayer

1 to anticipate that his average monthly tax liability for the
2 reasonably foreseeable future will fall below the \$10,000
3 threshold stated above, then such taxpayer may petition the
4 Department for a change in such taxpayer's reporting status. On
5 and after October 1, 2000 through June 30, 2008, once
6 applicable, the requirement of the making of quarter monthly
7 payments to the Department by taxpayers having an average
8 monthly tax liability of \$20,000 or more as determined in the
9 manner provided above shall continue until such taxpayer's
10 average monthly liability to the Department during the
11 preceding 4 complete calendar quarters (excluding the month of
12 highest liability and the month of lowest liability) is less
13 than \$19,000 or until such taxpayer's average monthly liability
14 to the Department as computed for each calendar quarter of the
15 4 preceding complete calendar quarter period is less than
16 \$20,000. On and after July 1, 2008, once applicable, the
17 requirement of the making of quarter monthly payments to the
18 Department shall continue until such taxpayer's average
19 monthly liability to the Department during the preceding
20 calendar year is \$30,000 or less. However, if a taxpayer can
21 show the Department that a substantial change in the taxpayer's
22 business has occurred which causes the taxpayer to anticipate
23 that his average monthly tax liability for the reasonably
24 foreseeable future will fall below the \$20,000 threshold stated
25 above, then such taxpayer may petition the Department for a
26 change in such taxpayer's reporting status. The Department

1 shall change such taxpayer's reporting status unless it finds
2 that such change is seasonal in nature and not likely to be
3 long term. If any such quarter monthly payment is not paid at
4 the time or in the amount required by this Section, then the
5 taxpayer shall be liable for penalties and interest on the
6 difference between the minimum amount due as a payment and the
7 amount of such quarter monthly payment actually and timely
8 paid, except insofar as the taxpayer has previously made
9 payments for that month to the Department in excess of the
10 minimum payments previously due as provided in this Section.
11 The Department shall make reasonable rules and regulations to
12 govern the quarter monthly payment amount and quarter monthly
13 payment dates for taxpayers who file on other than a calendar
14 monthly basis.

15 The provisions of this paragraph apply before October 1,
16 2001 through June 30, 2008. Without regard to whether a
17 taxpayer is required to make quarter monthly payments as
18 specified above, any taxpayer who is required by Section 2d of
19 this Act to collect and remit prepaid taxes and has collected
20 prepaid taxes which average in excess of \$25,000 per month
21 during the preceding 2 complete calendar quarters, shall file a
22 return with the Department as required by Section 2f and shall
23 make payments to the Department on or before the 7th, 15th,
24 22nd and last day of the month during which such liability is
25 incurred. If the month during which such tax liability is
26 incurred began prior to the effective date of this amendatory

1 Act of 1985, each payment shall be in an amount not less than
2 22.5% of the taxpayer's actual liability under Section 2d. If
3 the month during which such tax liability is incurred begins on
4 or after January 1, 1986, each payment shall be in an amount
5 equal to 22.5% of the taxpayer's actual liability for the month
6 or 27.5% of the taxpayer's liability for the same calendar
7 month of the preceding calendar year. If the month during which
8 such tax liability is incurred begins on or after January 1,
9 1987, each payment shall be in an amount equal to 22.5% of the
10 taxpayer's actual liability for the month or 26.25% of the
11 taxpayer's liability for the same calendar month of the
12 preceding year. The amount of such quarter monthly payments
13 shall be credited against the final tax liability of the
14 taxpayer's return for that month filed under this Section or
15 Section 2f, as the case may be. Once applicable, the
16 requirement of the making of quarter monthly payments to the
17 Department pursuant to this paragraph shall continue until such
18 taxpayer's average monthly prepaid tax collections during the
19 preceding 2 complete calendar quarters is \$25,000 or less. If
20 any such quarter monthly payment is not paid at the time or in
21 the amount required, the taxpayer shall be liable for penalties
22 and interest on such difference, except insofar as the taxpayer
23 has previously made payments for that month in excess of the
24 minimum payments previously due.

25 The provisions of this paragraph apply on and after July 1,
26 2008. Without regard to whether a taxpayer is required to make

1 quarter monthly payments as specified above, any taxpayer who
2 is required by Section 2d of this Act to collect and remit
3 prepaid taxes and has collected prepaid taxes that average in
4 excess of \$30,000 in the preceding calendar year shall file a
5 return with the Department as required by Section 2f and shall
6 make payments to the Department on or before the 7th, 15th,
7 22nd and last day of the month during which the liability is
8 incurred. Each payment shall be in an amount equal to 22.5% of
9 the taxpayer's actual liability for the month or 25% of the
10 taxpayer's liability for the same calendar month of the
11 preceding year. The amount of the quarter monthly payments
12 shall be credited against the final tax liability of the
13 taxpayer's return for that month filed under this Section or
14 Section 2f, as the case may be. Once applicable, the
15 requirement of the making of quarter monthly payments to the
16 Department pursuant to this paragraph shall continue until the
17 taxpayer's monthly prepaid tax collections during the
18 preceding calendar year is \$30,000 or less. If any such quarter
19 monthly payment is not paid at the time or in the amount
20 required, the taxpayer shall be liable for penalties and
21 interest on such difference, except insofar as the taxpayer has
22 previously made payments for that month in excess of the
23 minimum payments previously due.

24 The provisions of this paragraph apply on and after October
25 1, 2001. Without regard to whether a taxpayer is required to
26 make quarter monthly payments as specified above, any taxpayer

1 who is required by Section 2d of this Act to collect and remit
2 prepaid taxes and has collected prepaid taxes that average in
3 excess of \$20,000 per month during the preceding 4 complete
4 calendar quarters shall file a return with the Department as
5 required by Section 2f and shall make payments to the
6 Department on or before the 7th, 15th, 22nd and last day of the
7 month during which the liability is incurred. Each payment
8 shall be in an amount equal to 22.5% of the taxpayer's actual
9 liability for the month or 25% of the taxpayer's liability for
10 the same calendar month of the preceding year. The amount of
11 the quarter monthly payments shall be credited against the
12 final tax liability of the taxpayer's return for that month
13 filed under this Section or Section 2f, as the case may be.
14 Once applicable, the requirement of the making of quarter
15 monthly payments to the Department pursuant to this paragraph
16 shall continue until the taxpayer's average monthly prepaid tax
17 collections during the preceding 4 complete calendar quarters
18 (excluding the month of highest liability and the month of
19 lowest liability) is less than \$19,000 or until such taxpayer's
20 average monthly liability to the Department as computed for
21 each calendar quarter of the 4 preceding complete calendar
22 quarters is less than \$20,000. If any such quarter monthly
23 payment is not paid at the time or in the amount required, the
24 taxpayer shall be liable for penalties and interest on such
25 difference, except insofar as the taxpayer has previously made
26 payments for that month in excess of the minimum payments

1 previously due.

2 If any payment provided for in this Section exceeds the
3 taxpayer's liabilities under this Act, the Use Tax Act, the
4 Service Occupation Tax Act and the Service Use Tax Act, as
5 shown on an original monthly return, the Department shall, if
6 requested by the taxpayer, issue to the taxpayer a credit
7 memorandum no later than 30 days after the date of payment. The
8 credit evidenced by such credit memorandum may be assigned by
9 the taxpayer to a similar taxpayer under this Act, the Use Tax
10 Act, the Service Occupation Tax Act or the Service Use Tax Act,
11 in accordance with reasonable rules and regulations to be
12 prescribed by the Department. If no such request is made, the
13 taxpayer may credit such excess payment against tax liability
14 subsequently to be remitted to the Department under this Act,
15 the Use Tax Act, the Service Occupation Tax Act or the Service
16 Use Tax Act, in accordance with reasonable rules and
17 regulations prescribed by the Department. If the Department
18 subsequently determined that all or any part of the credit
19 taken was not actually due to the taxpayer, the taxpayer's 2.1%
20 and 1.75% vendor's discount shall be reduced by 2.1% or 1.75%
21 of the difference between the credit taken and that actually
22 due, and that taxpayer shall be liable for penalties and
23 interest on such difference.

24 If a retailer of motor fuel is entitled to a credit under
25 Section 2d of this Act which exceeds the taxpayer's liability
26 to the Department under this Act for the month which the

1 taxpayer is filing a return, the Department shall issue the
2 taxpayer a credit memorandum for the excess.

3 Beginning January 1, 1990, each month the Department shall
4 pay into the Local Government Tax Fund, a special fund in the
5 State treasury which is hereby created, the net revenue
6 realized for the preceding month from the 1% tax on sales of
7 food for human consumption which is to be consumed off the
8 premises where it is sold (other than alcoholic beverages, soft
9 drinks and food which has been prepared for immediate
10 consumption) and prescription and nonprescription medicines,
11 drugs, medical appliances and insulin, urine testing
12 materials, syringes and needles used by diabetics.

13 Beginning July 1, 2008, each month the Department shall pay
14 into the Local Government Tax Fund, a special fund in the State
15 treasury which is hereby created, the net revenue realized for
16 the preceding month from the 1% tax on sales of food and food
17 ingredients (other than prepared food), drugs for human use
18 available by prescription only, and over-the-counter-drugs for
19 human use (other than grooming and hygiene products).

20 Beginning January 1, 1990, each month the Department shall
21 pay into the County and Mass Transit District Fund, a special
22 fund in the State treasury which is hereby created, 4% of the
23 net revenue realized for the preceding month from the 6.25%
24 general rate imposed in subsection (a) of Section 2 of this Act
25 and the 6.25% rate on the transfer price of prewritten computer
26 software imposed under subsection (b) of Section 2 of this Act.

1 Beginning August 1, 2000, each month the Department shall
2 pay into the County and Mass Transit District Fund 20% of the
3 net revenue realized for the preceding month from the 1.25%
4 rate on the selling price of motor fuel and gasohol.

5 Beginning January 1, 1990, each month the Department shall
6 pay into the Local Government Tax Fund 16% of the net revenue
7 realized for the preceding month from the 6.25% general rate on
8 the selling price of tangible personal property imposed in
9 subsection (a) of Section 2 of this Act and the 6.25% rate on
10 the transfer price of prewritten computer software imposed
11 under subsection (b) of Section 2 of this Act.

12 Beginning August 1, 2000, each month the Department shall
13 pay into the Local Government Tax Fund 80% of the net revenue
14 realized for the preceding month from the 1.25% rate on the
15 selling price of motor fuel and gasohol.

16 Of the remainder of the moneys received by the Department
17 pursuant to this Act, (a) 1.75% thereof shall be paid into the
18 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on
19 and after July 1, 1989, 3.8% thereof shall be paid into the
20 Build Illinois Fund; provided, however, that if in any fiscal
21 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
22 may be, of the moneys received by the Department and required
23 to be paid into the Build Illinois Fund pursuant to this Act,
24 Section 9 of the Use Tax Act, Section 9 of the Service Use Tax
25 Act, and Section 9 of the Service Occupation Tax Act, such Acts
26 being hereinafter called the "Tax Acts" and such aggregate of

1 2.2% or 3.8%, as the case may be, of moneys being hereinafter
2 called the "Tax Act Amount", and (2) the amount transferred to
3 the Build Illinois Fund from the State and Local Sales Tax
4 Reform Fund shall be less than the Annual Specified Amount (as
5 hereinafter defined), an amount equal to the difference shall
6 be immediately paid into the Build Illinois Fund from other
7 moneys received by the Department pursuant to the Tax Acts; the
8 "Annual Specified Amount" means the amounts specified below for
9 fiscal years 1986 through 1993:

10	Fiscal Year	Annual Specified Amount
11	1986	\$54,800,000
12	1987	\$76,650,000
13	1988	\$80,480,000
14	1989	\$88,510,000
15	1990	\$115,330,000
16	1991	\$145,470,000
17	1992	\$182,730,000
18	1993	\$206,520,000;

19 and means the Certified Annual Debt Service Requirement (as
20 defined in Section 13 of the Build Illinois Bond Act) or the
21 Tax Act Amount, whichever is greater, for fiscal year 1994 and
22 each fiscal year thereafter; and further provided, that if on
23 the last business day of any month the sum of (1) the Tax Act
24 Amount required to be deposited into the Build Illinois Bond
25 Account in the Build Illinois Fund during such month and (2)
26 the amount transferred to the Build Illinois Fund from the

1 State and Local Sales Tax Reform Fund shall have been less than
2 1/12 of the Annual Specified Amount, an amount equal to the
3 difference shall be immediately paid into the Build Illinois
4 Fund from other moneys received by the Department pursuant to
5 the Tax Acts; and, further provided, that in no event shall the
6 payments required under the preceding proviso result in
7 aggregate payments into the Build Illinois Fund pursuant to
8 this clause (b) for any fiscal year in excess of the greater of
9 (i) the Tax Act Amount or (ii) the Annual Specified Amount for
10 such fiscal year. The amounts payable into the Build Illinois
11 Fund under clause (b) of the first sentence in this paragraph
12 shall be payable only until such time as the aggregate amount
13 on deposit under each trust indenture securing Bonds issued and
14 outstanding pursuant to the Build Illinois Bond Act is
15 sufficient, taking into account any future investment income,
16 to fully provide, in accordance with such indenture, for the
17 defeasance of or the payment of the principal of, premium, if
18 any, and interest on the Bonds secured by such indenture and on
19 any Bonds expected to be issued thereafter and all fees and
20 costs payable with respect thereto, all as certified by the
21 Director of the Bureau of the Budget (now Governor's Office of
22 Management and Budget). If on the last business day of any
23 month in which Bonds are outstanding pursuant to the Build
24 Illinois Bond Act, the aggregate of moneys deposited in the
25 Build Illinois Bond Account in the Build Illinois Fund in such
26 month shall be less than the amount required to be transferred

1 in such month from the Build Illinois Bond Account to the Build
2 Illinois Bond Retirement and Interest Fund pursuant to Section
3 13 of the Build Illinois Bond Act, an amount equal to such
4 deficiency shall be immediately paid from other moneys received
5 by the Department pursuant to the Tax Acts to the Build
6 Illinois Fund; provided, however, that any amounts paid to the
7 Build Illinois Fund in any fiscal year pursuant to this
8 sentence shall be deemed to constitute payments pursuant to
9 clause (b) of the first sentence of this paragraph and shall
10 reduce the amount otherwise payable for such fiscal year
11 pursuant to that clause (b). The moneys received by the
12 Department pursuant to this Act and required to be deposited
13 into the Build Illinois Fund are subject to the pledge, claim
14 and charge set forth in Section 12 of the Build Illinois Bond
15 Act.

16 Subject to payment of amounts into the Build Illinois Fund
17 as provided in the preceding paragraph or in any amendment
18 thereto hereafter enacted, the following specified monthly
19 installment of the amount requested in the certificate of the
20 Chairman of the Metropolitan Pier and Exposition Authority
21 provided under Section 8.25f of the State Finance Act, but not
22 in excess of sums designated as "Total Deposit", shall be
23 deposited in the aggregate from collections under Section 9 of
24 the Use Tax Act, Section 9 of the Service Use Tax Act, Section
25 9 of the Service Occupation Tax Act, and Section 3 of the
26 Retailers' Occupation Tax Act into the McCormick Place

1 Expansion Project Fund in the specified fiscal years.

2		Total
	Fiscal Year	Deposit
3	1993	\$0
4	1994	53,000,000
5	1995	58,000,000
6	1996	61,000,000
7	1997	64,000,000
8	1998	68,000,000
9	1999	71,000,000
10	2000	75,000,000
11	2001	80,000,000
12	2002	93,000,000
13	2003	99,000,000
14	2004	103,000,000
15	2005	108,000,000
16	2006	113,000,000
17	2007	119,000,000
18	2008	126,000,000
19	2009	132,000,000
20	2010	139,000,000
21	2011	146,000,000
22	2012	153,000,000
23	2013	161,000,000
24	2014	170,000,000
25	2015	179,000,000

1	2016	189,000,000
2	2017	199,000,000
3	2018	210,000,000
4	2019	221,000,000
5	2020	233,000,000
6	2021	246,000,000
7	2022	260,000,000
8	2023 and	275,000,000

9 each fiscal year

10 thereafter that bonds

11 are outstanding under

12 Section 13.2 of the

13 Metropolitan Pier and

14 Exposition Authority Act,

15 but not after fiscal year 2042.

16 Beginning July 20, 1993 and in each month of each fiscal
17 year thereafter, one-eighth of the amount requested in the
18 certificate of the Chairman of the Metropolitan Pier and
19 Exposition Authority for that fiscal year, less the amount
20 deposited into the McCormick Place Expansion Project Fund by
21 the State Treasurer in the respective month under subsection
22 (g) of Section 13 of the Metropolitan Pier and Exposition
23 Authority Act, plus cumulative deficiencies in the deposits
24 required under this Section for previous months and years,
25 shall be deposited into the McCormick Place Expansion Project
26 Fund, until the full amount requested for the fiscal year, but

1 not in excess of the amount specified above as "Total Deposit",
2 has been deposited.

3 Subject to payment of amounts into the Build Illinois Fund
4 and the McCormick Place Expansion Project Fund pursuant to the
5 preceding paragraphs or in any amendments thereto hereafter
6 enacted, beginning July 1, 1993, the Department shall each
7 month pay into the Illinois Tax Increment Fund 0.27% of 80% of
8 the net revenue realized for the preceding month from the 6.25%
9 general rate on the selling price of tangible personal property
10 imposed in subsection (a) of Section 2 of this Act and the
11 6.25% rate on the transfer price of prewritten computer
12 software imposed under subsection (b) of Section 2 of this Act.

13 Subject to payment of amounts into the Build Illinois Fund
14 and the McCormick Place Expansion Project Fund pursuant to the
15 preceding paragraphs or in any amendments thereto hereafter
16 enacted, beginning with the receipt of the first report of
17 taxes paid by an eligible business and continuing for a 25-year
18 period, the Department shall each month pay into the Energy
19 Infrastructure Fund 80% of the net revenue realized from the
20 6.25% general rate imposed under subsection (a) of Section 2 of
21 this Act on the selling price of Illinois-mined coal that was
22 sold to an eligible business. For purposes of this paragraph,
23 the term "eligible business" means a new electric generating
24 facility certified pursuant to Section 605-332 of the
25 Department of Commerce and Economic Opportunity Law of the
26 Civil Administrative Code of Illinois.

1 Of the remainder of the moneys received by the Department
2 pursuant to this Act from the 6.25% general rate on the selling
3 price of tangible personal property imposed under subsection
4 (a) of Section 2 of this Act and the 6.25% rate on the transfer
5 price of prewritten computer software imposed under subsection
6 (b) of Section 2 of this Act, 75% thereof shall be paid into
7 the State Treasury and 25% shall be reserved in a special
8 account and used only for the transfer to the Common School
9 Fund as part of the monthly transfer from the General Revenue
10 Fund in accordance with Section 8a of the State Finance Act.

11 The Department may, upon separate written notice to a
12 taxpayer, require the taxpayer to prepare and file with the
13 Department on a form prescribed by the Department within not
14 less than 60 days after receipt of the notice an annual
15 information return for the tax year specified in the notice.
16 Such annual return to the Department shall include a statement
17 of gross receipts as shown by the retailer's last Federal
18 income tax return. If the total receipts of the business as
19 reported in the Federal income tax return do not agree with the
20 gross receipts reported to the Department of Revenue for the
21 same period, the retailer shall attach to his annual return a
22 schedule showing a reconciliation of the 2 amounts and the
23 reasons for the difference. The retailer's annual return to the
24 Department shall also disclose the cost of goods sold by the
25 retailer during the year covered by such return, opening and
26 closing inventories of such goods for such year, costs of goods

1 used from stock or taken from stock and given away by the
2 retailer during such year, payroll information of the
3 retailer's business during such year and any additional
4 reasonable information which the Department deems would be
5 helpful in determining the accuracy of the monthly, quarterly
6 or annual returns filed by such retailer as provided for in
7 this Section.

8 If the annual information return required by this Section
9 is not filed when and as required, the taxpayer shall be liable
10 as follows:

11 (i) Until January 1, 1994, the taxpayer shall be liable
12 for a penalty equal to 1/6 of 1% of the tax due from such
13 taxpayer under this Act during the period to be covered by
14 the annual return for each month or fraction of a month
15 until such return is filed as required, the penalty to be
16 assessed and collected in the same manner as any other
17 penalty provided for in this Act.

18 (ii) On and after January 1, 1994, the taxpayer shall
19 be liable for a penalty as described in Section 3-4 of the
20 Uniform Penalty and Interest Act.

21 The chief executive officer, proprietor, owner or highest
22 ranking manager shall sign the annual return to certify the
23 accuracy of the information contained therein. Any person who
24 willfully signs the annual return containing false or
25 inaccurate information shall be guilty of perjury and punished
26 accordingly. The annual return form prescribed by the

1 Department shall include a warning that the person signing the
2 return may be liable for perjury.

3 The provisions of this Section concerning the filing of an
4 annual information return do not apply to a retailer who is not
5 required to file an income tax return with the United States
6 Government.

7 As soon as possible after the first day of each month, upon
8 certification of the Department of Revenue, the Comptroller
9 shall order transferred and the Treasurer shall transfer from
10 the General Revenue Fund to the Motor Fuel Tax Fund an amount
11 equal to 1.7% of 80% of the net revenue realized under this Act
12 for the second preceding month. Beginning April 1, 2000, this
13 transfer is no longer required and shall not be made.

14 Net revenue realized for a month shall be the revenue
15 collected by the State pursuant to this Act, less the amount
16 paid out during that month as refunds to taxpayers for
17 overpayment of liability.

18 For greater simplicity of administration, manufacturers,
19 importers and wholesalers whose products are sold at retail in
20 Illinois by numerous retailers, and who wish to do so, may
21 assume the responsibility for accounting and paying to the
22 Department all tax accruing under this Act with respect to such
23 sales, if the retailers who are affected do not make written
24 objection to the Department to this arrangement.

25 Any person who promotes, organizes, provides retail
26 selling space for concessionaires or other types of sellers at

1 the Illinois State Fair, DuQuoin State Fair, county fairs,
2 local fairs, art shows, flea markets and similar exhibitions or
3 events, including any transient merchant as defined by Section
4 2 of the Transient Merchant Act of 1987, is required to file a
5 report with the Department providing the name of the merchant's
6 business, the name of the person or persons engaged in
7 merchant's business, the permanent address and Illinois
8 Retailers Occupation Tax Registration Number of the merchant,
9 the dates and location of the event and other reasonable
10 information that the Department may require. The report must be
11 filed not later than the 20th day of the month next following
12 the month during which the event with retail sales was held.
13 Any person who fails to file a report required by this Section
14 commits a business offense and is subject to a fine not to
15 exceed \$250.

16 Any person engaged in the business of selling tangible
17 personal property at retail as a concessionaire or other type
18 of seller at the Illinois State Fair, county fairs, art shows,
19 flea markets and similar exhibitions or events, or any
20 transient merchants, as defined by Section 2 of the Transient
21 Merchant Act of 1987, may be required to make a daily report of
22 the amount of such sales to the Department and to make a daily
23 payment of the full amount of tax due. The Department shall
24 impose this requirement when it finds that there is a
25 significant risk of loss of revenue to the State at such an
26 exhibition or event. Such a finding shall be based on evidence

1 that a substantial number of concessionaires or other sellers
2 who are not residents of Illinois will be engaging in the
3 business of selling tangible personal property at retail at the
4 exhibition or event, or other evidence of a significant risk of
5 loss of revenue to the State. The Department shall notify
6 concessionaires and other sellers affected by the imposition of
7 this requirement. In the absence of notification by the
8 Department, the concessionaires and other sellers shall file
9 their returns as otherwise required in this Section.

10 (Source: P.A. 93-22, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,
11 eff. 7-30-04; 93-926, eff. 8-12-04; 93-1057, eff. 12-2-04;
12 94-1074, eff. 12-26-06.)

13 (35 ILCS 120/3.5 new)

14 Sec. 3.5. Streamlined Sales Tax; taxability matrix. Upon
15 acceptance of the State as a party to the Streamlined Sales and
16 Use Tax Agreement, the Department shall create a taxability
17 matrix adopted by the Governing Board to the Streamlined Sales
18 and Use Tax Agreement. The State's matrix shall be maintained
19 in a database that is in a downloadable format approved by the
20 Governing Board. The Department shall provide notice of changes
21 in the taxability of the products or services listed in the
22 taxability matrix as required by the Governing Board. Taxpayers
23 that have chosen to be registered under the Streamlined Sales
24 and Use Tax Agreement and CSPs are relieved from liability for
25 having charged and collected the incorrect amount of tax

1 imposed under this Act resulting from those sellers or CSPs
2 relying on erroneous data provided by the State in the
3 taxability matrix.

4 (35 ILCS 120/3.6 new)

5 Sec. 3.6. Streamlined Sales Tax; amnesty for registration.
6 The provisions of this Section are effective beginning July 1,
7 2008. The Department shall establish an amnesty program for all
8 persons that have chosen to be registered under the Streamlined
9 Sales and Use Tax Agreement and that have not previously been
10 registered under this Act in the twelve-month period prior to
11 the State's participation in the Streamlined Sales and Use Tax
12 Agreement. No assessment for tax or notice of tax liability may
13 be issued for the period in which the seller was not registered
14 with the State, provided that the seller registers under the
15 Streamlined Sales and Use Tax Agreement within twelve-months of
16 the date that the State begins participation in the Streamlined
17 Sales and Use Tax Agreement. No amnesty may be provided for any
18 matter or matters for which the seller received notice of the
19 commencement of an audit and which audit is not yet finally
20 resolved including any related administrative and judicial
21 processes. No amnesty may be provided for any taxes already
22 paid or remitted to the State under this Act. The amnesty
23 provided under this Section is conditioned upon the seller not
24 fraudulently or intentionally misrepresenting a material fact
25 to the Department and the seller's continued registration and

1 payment of the taxes imposed under this Act for a period of at
2 least thirty-six months. The limitations period for the
3 issuance of a Notice of Tax Liability under Section 4 and
4 Section 5 of this Act for liabilities incurred prior to
5 registration shall be tolled during the thirty-six month period
6 that the seller is registered and paying tax to the Department.
7 The amnesty provisions of this Section apply only to taxes due
8 from the seller in its capacity as a retailer and do not apply
9 to taxes incurred in its capacity as a purchaser.

10 (35 ILCS 120/3.8 new)

11 Sec. 3.8. Model 1, Model 2, Model 3, and other sellers;
12 monetary allowances. If the State of Illinois becomes a member
13 to the Streamlined Sales and Use Tax Agreement, the State shall
14 provide the following monetary allowances for new
15 technological models for tax collection by sellers:

16 (a) Monetary allowance under Model I:

17 (1) The Department shall provide a monetary allowance
18 to a certified service provider in Model I. This allowance
19 shall be in accordance with the terms of the contract
20 between the Governing Board of the Streamlined Sales and
21 Use Tax Agreement and the certified service provider. The
22 details of this monetary allowance shall be developed and
23 provided through the contract process. The contract shall
24 provide that the allowance be funded entirely from money
25 collected in Model I.

1 (2) The contract between the Governing Board and the
2 certified service provider may base the monetary allowance
3 to a certified service provider on one or more of the
4 following:

5 (A) A base rate that applies to taxable
6 transactions processed by the certified service
7 provider; or

8 (B) For a period not to exceed twenty-four months
9 following a voluntary seller's registration through
10 the agreement's central registration process, a
11 percentage of tax revenue generated for a member state
12 by the voluntary seller for each member state for which
13 the seller does not have a requirement to register to
14 collect the tax.

15 (b) Monetary allowance for Model II sellers. The monetary
16 allowance to sellers under Model II may be based on the
17 following:

18 (1) All sellers shall receive a base rate for a period
19 not to exceed twenty-four months following the
20 commencement of participation by a seller. The base rate
21 shall be set by the governing board of the streamlined
22 sales and use tax agreement after the base rate has been
23 established for Model I certified service providers. This
24 allowance shall be in addition to any vendor or seller
25 discount afforded by each member state at the time.

26 (2) The monetary allowance to a Model II seller may be

1 based on the following:

2 (A) For a period not to exceed twenty-four months
3 following a voluntary seller's registration through
4 the agreement's central registration process, a
5 percentage of tax revenue generated for a member state
6 by the voluntary seller for each member state for which
7 the seller does not have a requirement to register to
8 collect the tax; and

9 (B) Following the conclusion of the twenty-four
10 month period, a seller will only be entitled to a
11 vendor discount afforded under each member state's law
12 at the time the base rate expires.

13 (c) Monetary allowance for Model III sellers and all other
14 sellers that are not under Models I or II. A monetary allowance
15 to sellers under Model III and to all other sellers that are
16 not under Models I or II may be allowed based on the following:

17 (1) For a period not to exceed twenty-four months
18 following a voluntary seller's registration through the
19 agreement's central registration process, a percentage of
20 tax revenue generated for a member state by the voluntary
21 seller for each member state for which the seller does not
22 have a requirement to register to collect the tax; and

23 (2) Vendor discounts afforded under each member
24 state's law.

25 Section 35. The Counties Code is amended by changing

1 Sections 5-1006, 5-1006.5, 5-1007, 5-1008.5, and 5-1009 as
2 follows:

3 (55 ILCS 5/5-1006) (from Ch. 34, par. 5-1006)

4 Sec. 5-1006. Home Rule County Retailers' Occupation Tax
5 Law. Any county that is a home rule unit may impose a tax upon
6 all persons engaged in the business of selling tangible
7 personal property, other than an item of tangible personal
8 property titled or registered with an agency of this State's
9 government, at retail in the county on the gross receipts from
10 such sales made in the course of their business. If imposed,
11 this tax shall only be imposed in 1/4% increments. On and after
12 September 1, 1991 and through June 30, 2008, this additional
13 tax may not be imposed on the sales of food for human
14 consumption which is to be consumed off the premises where it
15 is sold (other than alcoholic beverages, soft drinks and food
16 which has been prepared for immediate consumption) and
17 prescription and nonprescription medicines, drugs, medical
18 appliances and insulin, urine testing materials, syringes and
19 needles used by diabetics.

20 In order for the State to become a member of the
21 Streamlined Sales and Use Tax Agreement and in recognition of
22 the rapidly expanding technologies by which prewritten
23 computer software is transferred, it is the intent of the
24 General Assembly that the tax imposed under this Section be
25 imposed on the same base as the Retailers' Occupation Tax Act

1 and that the tax on prewritten computer software be applied
2 regardless of the manner in which the prewritten computer
3 software is transferred.

4 If, on the effective date of this amendatory Act of the
5 95th General Assembly, a unit of local government has imposed a
6 tax under this Section by ordinance or resolution, or if, after
7 the effective date of this amendatory Act of the 95th General
8 Assembly, a unit of local government imposes a tax under this
9 Section by ordinance or resolution, the tax imposed by that
10 ordinance or resolution includes transfers of prewritten
11 computer software and, on and after July 1, 2008, all items
12 subject to tax under the Retailers' Occupation Tax Act,
13 including but not limited to food and food ingredients for
14 human consumption, prescription drugs, and over the counter
15 drugs.

16 The tax imposed by a home rule county pursuant to this
17 Section and all civil penalties that may be assessed as an
18 incident thereof shall be collected and enforced by the State
19 Department of Revenue. The certificate of registration that is
20 issued by the Department to a retailer under the Retailers'
21 Occupation Tax Act shall permit the retailer to engage in a
22 business that is taxable under any ordinance or resolution
23 enacted pursuant to this Section without registering
24 separately with the Department under such ordinance or
25 resolution or under this Section. The Department shall have
26 full power to administer and enforce this Section; to collect

1 all taxes and penalties due hereunder; to dispose of taxes and
2 penalties so collected in the manner hereinafter provided; and
3 to determine all rights to credit memoranda arising on account
4 of the erroneous payment of tax or penalty hereunder. In the
5 administration of, and compliance with, this Section, the
6 Department and persons who are subject to this Section shall
7 have the same rights, remedies, privileges, immunities, powers
8 and duties, and be subject to the same conditions,
9 restrictions, limitations, penalties and definitions of terms,
10 and employ the same modes of procedure, as are prescribed in
11 Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through
12 2-65 (in respect to all provisions therein other than the State
13 rate of tax), 2a, 2b, 2c, 3 (except provisions relating to
14 transaction returns and quarter monthly payments), 3.5, 3.6,
15 3.8, 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6,
16 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'
17 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
18 Interest Act, as fully as if those provisions were set forth
19 herein.

20 No tax may be imposed by a home rule county pursuant to
21 this Section unless the county also imposes a tax at the same
22 rate pursuant to Section 5-1007.

23 Persons subject to any tax imposed pursuant to the
24 authority granted in this Section may reimburse themselves for
25 their seller's tax liability hereunder by separately stating
26 such tax as an additional charge, which charge may be stated in

1 combination, in a single amount, with State tax which sellers
2 are required to collect under the Use Tax Act, pursuant to such
3 bracket schedules as the Department may prescribe.

4 Whenever the Department determines that a refund should be
5 made under this Section to a claimant instead of issuing a
6 credit memorandum, the Department shall notify the State
7 Comptroller, who shall cause the order to be drawn for the
8 amount specified and to the person named in the notification
9 from the Department. The refund shall be paid by the State
10 Treasurer out of the home rule county retailers' occupation tax
11 fund.

12 The Department shall forthwith pay over to the State
13 Treasurer, ex officio, as trustee, all taxes and penalties
14 collected hereunder. On or before the 25th day of each calendar
15 month, the Department shall prepare and certify to the
16 Comptroller the disbursement of stated sums of money to named
17 counties, the counties to be those from which retailers have
18 paid taxes or penalties hereunder to the Department during the
19 second preceding calendar month. The amount to be paid to each
20 county shall be the amount (not including credit memoranda)
21 collected hereunder during the second preceding calendar month
22 by the Department plus an amount the Department determines is
23 necessary to offset any amounts that were erroneously paid to a
24 different taxing body, and not including an amount equal to the
25 amount of refunds made during the second preceding calendar
26 month by the Department on behalf of such county, and not

1 including any amount which the Department determines is
2 necessary to offset any amounts which were payable to a
3 different taxing body but were erroneously paid to the county.
4 Within 10 days after receipt, by the Comptroller, of the
5 disbursement certification to the counties provided for in this
6 Section to be given to the Comptroller by the Department, the
7 Comptroller shall cause the orders to be drawn for the
8 respective amounts in accordance with the directions contained
9 in the certification.

10 In addition to the disbursement required by the preceding
11 paragraph, an allocation shall be made in March of each year to
12 each county that received more than \$500,000 in disbursements
13 under the preceding paragraph in the preceding calendar year.
14 The allocation shall be in an amount equal to the average
15 monthly distribution made to each such county under the
16 preceding paragraph during the preceding calendar year
17 (excluding the 2 months of highest receipts). The distribution
18 made in March of each year subsequent to the year in which an
19 allocation was made pursuant to this paragraph and the
20 preceding paragraph shall be reduced by the amount allocated
21 and disbursed under this paragraph in the preceding calendar
22 year. The Department shall prepare and certify to the
23 Comptroller for disbursement the allocations made in
24 accordance with this paragraph.

25 On and before June 30, 2008, for ~~For~~ the purpose of
26 determining the local governmental unit whose tax is

1 applicable, a retail sale by a producer of coal or other
2 mineral mined in Illinois is a sale at retail at the place
3 where the coal or other mineral mined in Illinois is extracted
4 from the earth. This paragraph does not apply to coal or other
5 mineral when it is delivered or shipped by the seller to the
6 purchaser at a point outside Illinois so that the sale is
7 exempt under the United States Constitution as a sale in
8 interstate or foreign commerce.

9 Nothing in this Section shall be construed to authorize a
10 county to impose a tax upon the privilege of engaging in any
11 business which under the Constitution of the United States may
12 not be made the subject of taxation by this State.

13 An ordinance or resolution imposing or discontinuing a tax
14 hereunder or effecting a change in the rate thereof shall be
15 adopted and a certified copy thereof filed with the Department
16 on or before the first day of June, whereupon the Department
17 shall proceed to administer and enforce this Section as of the
18 first day of September next following such adoption and filing.
19 Beginning January 1, 1992, an ordinance or resolution imposing
20 or discontinuing the tax hereunder or effecting a change in the
21 rate thereof shall be adopted and a certified copy thereof
22 filed with the Department on or before the first day of July,
23 whereupon the Department shall proceed to administer and
24 enforce this Section as of the first day of October next
25 following such adoption and filing. Beginning January 1, 1993,
26 an ordinance or resolution imposing or discontinuing the tax

1 hereunder or effecting a change in the rate thereof shall be
2 adopted and a certified copy thereof filed with the Department
3 on or before the first day of October, whereupon the Department
4 shall proceed to administer and enforce this Section as of the
5 first day of January next following such adoption and filing.
6 Beginning April 1, 1998, an ordinance or resolution imposing or
7 discontinuing the tax hereunder or effecting a change in the
8 rate thereof shall either (i) be adopted and a certified copy
9 thereof filed with the Department on or before the first day of
10 April, whereupon the Department shall proceed to administer and
11 enforce this Section as of the first day of July next following
12 the adoption and filing; or (ii) be adopted and a certified
13 copy thereof filed with the Department on or before the first
14 day of October, whereupon the Department shall proceed to
15 administer and enforce this Section as of the first day of
16 January next following the adoption and filing.

17 Beginning on July 1, 2008, an ordinance or resolution
18 imposing or discontinuing the tax hereunder or effecting a
19 change in the rate thereof shall either (i) be adopted and a
20 certified copy thereof filed with the Department on or before
21 the first day of January, whereupon the Department shall
22 proceed to administer and enforce this Section as of the first
23 day of July next following the adoption and filing; or (ii) be
24 adopted and a certified copy thereof filed with the Department
25 on or before the first day of July, whereupon the Department
26 shall proceed to administer and enforce this Section as of the

1 first day of January next following the adoption and filing.
2 Beginning on July 1, 2008, notices of local jurisdiction
3 boundary changes shall either (i) be filed with the Department
4 on or before the first day of January, whereupon the Department
5 shall proceed to administer and enforce this Section in regards
6 to the boundary changes as of the first day of July next
7 following the filing; or (ii) be filed with the Department on
8 or before the first day of July, whereupon the Department shall
9 proceed to administer and enforce this Section in regards to
10 these boundary changes as of the first day of January next
11 following the adoption and filing.

12 When certifying the amount of a monthly disbursement to a
13 county under this Section, the Department shall increase or
14 decrease such amount by an amount necessary to offset any
15 misallocation of previous disbursements. The offset amount
16 shall be the amount erroneously disbursed within the previous 6
17 months from the time a misallocation is discovered.

18 This Section shall be known and may be cited as the Home
19 Rule County Retailers' Occupation Tax Law.

20 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

21 (55 ILCS 5/5-1006.5)

22 Sec. 5-1006.5. Special County Retailers' Occupation Tax
23 For Public Safety or Transportation.

24 (a) The county board of any county may impose a tax upon
25 all persons engaged in the business of selling tangible

1 personal property, other than personal property titled or
2 registered with an agency of this State's government, at retail
3 in the county on the gross receipts from the sales made in the
4 course of business to provide revenue to be used exclusively
5 for public safety or transportation purposes in that county, if
6 a proposition for the tax has been submitted to the electors of
7 that county and approved by a majority of those voting on the
8 question. If imposed, this tax shall be imposed only in
9 one-quarter percent increments. By resolution, the county
10 board may order the proposition to be submitted at any
11 election. If the tax is imposed for transportation purposes for
12 expenditures for public highways or as authorized under the
13 Illinois Highway Code, the county board must publish notice of
14 the existence of its long-range highway transportation plan as
15 required or described in Section 5-301 of the Illinois Highway
16 Code and must make the plan publicly available prior to
17 approval of the ordinance or resolution imposing the tax. If
18 the tax is imposed for transportation purposes for expenditures
19 for passenger rail transportation, the county board must
20 publish notice of the existence of its long-range passenger
21 rail transportation plan and must make the plan publicly
22 available prior to approval of the ordinance or resolution
23 imposing the tax. The county clerk shall certify the question
24 to the proper election authority, who shall submit the
25 proposition at an election in accordance with the general
26 election law.

1 (1) The proposition for public safety purposes shall be
2 in substantially the following form:

3 "Shall (name of county) be authorized to impose a
4 public safety tax at the rate of upon all persons
5 engaged in the business of selling tangible personal
6 property at retail in the county on gross receipts from the
7 sales made in the course of their business?"

8 For the purposes of the paragraph, "public safety
9 purposes" means crime prevention, detention, fire
10 fighting, police, medical, ambulance, or other emergency
11 services.

12 Votes shall be recorded as "Yes" or "No".

13 (2) The proposition for transportation purposes shall
14 be in substantially the following form:

15 "Shall (name of county) be authorized to impose a tax
16 at the rate of (insert rate) upon all persons engaged in
17 the business of selling tangible personal property at
18 retail in the county on gross receipts from the sales made
19 in the course of their business to be used for
20 transportation purposes?

21 For the purposes of this paragraph, transportation
22 purposes means construction, maintenance, operation, and
23 improvement of public highways, any other purpose for which
24 a county may expend funds under the Illinois Highway Code,
25 and passenger rail transportation.

26 The votes shall be recorded as "Yes" or "No".

1 If a majority of the electors voting on the proposition
2 vote in favor of it, the county may impose the tax. A county
3 may not submit more than one proposition authorized by this
4 Section to the electors at any one time.

5 Through June 30, 2008, this ~~This~~ additional tax may not be
6 imposed on the sales of food for human consumption that is to
7 be consumed off the premises where it is sold (other than
8 alcoholic beverages, soft drinks, and food which has been
9 prepared for immediate consumption) and prescription and
10 non-prescription medicines, drugs, medical appliances and
11 insulin, urine testing materials, syringes, and needles used by
12 diabetics.

13 In order for the State to become a member of the
14 Streamlined Sales and Use Tax Agreement and in recognition of
15 the rapidly expanding technologies by which prewritten
16 computer software is transferred, it is the intent of the
17 General Assembly that the tax imposed under this subsection be
18 imposed on the same base as the Retailers' Occupation Tax Act
19 and that the tax on prewritten computer software be applied
20 regardless of the manner in which the prewritten computer
21 software is transferred.

22 If, on the effective date of this amendatory Act of the
23 95th General Assembly, a unit of local government has imposed a
24 tax under this subsection by ordinance or resolution, or if,
25 after the effective date of this amendatory Act of the 95th
26 General Assembly, a unit of local government imposes a tax

1 under this subsection by ordinance or resolution, the tax
2 imposed by that ordinance or resolution includes transfers of
3 prewritten computer software and, on and after July 1, 2008,
4 all items subject to tax under the Retailers' Occupation Tax
5 Act, including but not limited to food and food ingredients for
6 human consumption, prescription drugs, and over the counter
7 drugs.

8 The tax imposed by a county under this Section and all
9 civil penalties that may be assessed as an incident of the tax
10 shall be collected and enforced by the Illinois Department of
11 Revenue and deposited into a special fund created for that
12 purpose. The certificate of registration that is issued by the
13 Department to a retailer under the Retailers' Occupation Tax
14 Act shall permit the retailer to engage in a business that is
15 taxable without registering separately with the Department
16 under an ordinance or resolution under this Section. The
17 Department has full power to administer and enforce this
18 Section, to collect all taxes and penalties due under this
19 Section, to dispose of taxes and penalties so collected in the
20 manner provided in this Section, and to determine all rights to
21 credit memoranda arising on account of the erroneous payment of
22 a tax or penalty under this Section. In the administration of
23 and compliance with this Section, the Department and persons
24 who are subject to this Section shall (i) have the same rights,
25 remedies, privileges, immunities, powers, and duties, (ii) be
26 subject to the same conditions, restrictions, limitations,

1 penalties, and definitions of terms, and (iii) employ the same
2 modes of procedure as are prescribed in Sections 1, 1a, 1a-1,
3 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-70 (in respect to
4 all provisions contained in those Sections other than the State
5 rate of tax), 2a, 2b, 2c, 3 (except provisions relating to
6 transaction returns and quarter monthly payments), 3.5, 3.6,
7 3.8, 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6,
8 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers'
9 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
10 Interest Act as if those provisions were set forth in this
11 Section.

12 Persons subject to any tax imposed under the authority
13 granted in this Section may reimburse themselves for their
14 sellers' tax liability by separately stating the tax as an
15 additional charge, which charge may be stated in combination,
16 in a single amount, with State tax which sellers are required
17 to collect under the Use Tax Act, pursuant to such bracketed
18 schedules as the Department may prescribe.

19 Whenever the Department determines that a refund should be
20 made under this Section to a claimant instead of issuing a
21 credit memorandum, the Department shall notify the State
22 Comptroller, who shall cause the order to be drawn for the
23 amount specified and to the person named in the notification
24 from the Department. The refund shall be paid by the State
25 Treasurer out of the County Public Safety or Transportation
26 Retailers' Occupation Tax Fund.

1 (b) If a tax has been imposed under subsection (a), a
2 service occupation tax shall also be imposed at the same rate
3 upon all persons engaged, in the county, in the business of
4 making sales of service, who, as an incident to making those
5 sales of service, transfer tangible personal property within
6 the county as an incident to a sale of service. Through June
7 30, 2008, this ~~This~~ tax may not be imposed on sales of food for
8 human consumption that is to be consumed off the premises where
9 it is sold (other than alcoholic beverages, soft drinks, and
10 food prepared for immediate consumption) and prescription and
11 non-prescription medicines, drugs, medical appliances and
12 insulin, urine testing materials, syringes, and needles used by
13 diabetics.

14 In order for the State to become a member of the
15 Streamlined Sales and Use Tax Agreement, it is the intent of
16 the General Assembly that the tax imposed under this subsection
17 be imposed on the same base as the Retailers' Occupation Tax
18 Act.

19 If, on the effective date of this amendatory Act of the
20 95th General Assembly, a unit of local government has imposed a
21 tax under this subsection by ordinance or resolution, or if,
22 after the effective date of this amendatory Act of the 95th
23 General Assembly, a unit of local government imposes a tax
24 under this subsection by ordinance or resolution, the tax
25 imposed by that ordinance or resolution includes, on and after
26 July 1, 2008, all items subject to tax under the Retailers'

1 Occupation Tax Act, including food and food ingredients for
2 human consumption, prescription drugs, and over the counter
3 drugs.

4 The tax imposed under this subsection and all civil
5 penalties that may be assessed as an incident thereof shall be
6 collected and enforced by the Department of Revenue. The
7 Department has full power to administer and enforce this
8 subsection; to collect all taxes and penalties due hereunder;
9 to dispose of taxes and penalties so collected in the manner
10 hereinafter provided; and to determine all rights to credit
11 memoranda arising on account of the erroneous payment of tax or
12 penalty hereunder. In the administration of, and compliance
13 with this subsection, the Department and persons who are
14 subject to this paragraph shall (i) have the same rights,
15 remedies, privileges, immunities, powers, and duties, (ii) be
16 subject to the same conditions, restrictions, limitations,
17 penalties, exclusions, exemptions, and definitions of terms,
18 and (iii) employ the same modes of procedure as are prescribed
19 in Sections 2 (except that the reference to State in the
20 definition of supplier maintaining a place of business in this
21 State shall mean the county), 2a, 2b, 2c, 3 through 3-50 (in
22 respect to all provisions therein other than the State rate of
23 tax), 4 (except that the reference to the State shall be to the
24 county), 5, 7, 8 (except that the jurisdiction to which the tax
25 shall be a debt to the extent indicated in that Section 8 shall
26 be the county), 9 (except as to the disposition of taxes and

1 penalties collected), 10, 11, 12 (except the reference therein
2 to Section 2b of the Retailers' Occupation Tax Act), 13 (except
3 that any reference to the State shall mean the county), Section
4 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
5 Section 3-7 of the Uniform Penalty and Interest Act, as fully
6 as if those provisions were set forth herein.

7 Persons subject to any tax imposed under the authority
8 granted in this subsection may reimburse themselves for their
9 serviceman's tax liability by separately stating the tax as an
10 additional charge, which charge may be stated in combination,
11 in a single amount, with State tax that servicemen are
12 authorized to collect under the Service Use Tax Act, in
13 accordance with such bracket schedules as the Department may
14 prescribe.

15 Whenever the Department determines that a refund should be
16 made under this subsection to a claimant instead of issuing a
17 credit memorandum, the Department shall notify the State
18 Comptroller, who shall cause the warrant to be drawn for the
19 amount specified, and to the person named, in the notification
20 from the Department. The refund shall be paid by the State
21 Treasurer out of the County Public Safety or Transportation
22 Retailers' Occupation Fund.

23 Nothing in this subsection shall be construed to authorize
24 the county to impose a tax upon the privilege of engaging in
25 any business which under the Constitution of the United States
26 may not be made the subject of taxation by the State.

1 (c) The Department shall immediately pay over to the State
2 Treasurer, ex officio, as trustee, all taxes and penalties
3 collected under this Section to be deposited into the County
4 Public Safety or Transportation Retailers' Occupation Tax
5 Fund, which shall be an unappropriated trust fund held outside
6 of the State treasury. On or before the 25th day of each
7 calendar month, the Department shall prepare and certify to the
8 Comptroller the disbursement of stated sums of money to the
9 counties from which retailers have paid taxes or penalties to
10 the Department during the second preceding calendar month. The
11 amount to be paid to each county, and deposited by the county
12 into its special fund created for the purposes of this Section,
13 shall be the amount (not including credit memoranda) collected
14 under this Section during the second preceding calendar month
15 by the Department plus an amount the Department determines is
16 necessary to offset any amounts that were erroneously paid to a
17 different taxing body, and not including (i) an amount equal to
18 the amount of refunds made during the second preceding calendar
19 month by the Department on behalf of the county and (ii) any
20 amount that the Department determines is necessary to offset
21 any amounts that were payable to a different taxing body but
22 were erroneously paid to the county. Within 10 days after
23 receipt by the Comptroller of the disbursement certification to
24 the counties provided for in this Section to be given to the
25 Comptroller by the Department, the Comptroller shall cause the
26 orders to be drawn for the respective amounts in accordance

1 with directions contained in the certification.

2 In addition to the disbursement required by the preceding
3 paragraph, an allocation shall be made in March of each year to
4 each county that received more than \$500,000 in disbursements
5 under the preceding paragraph in the preceding calendar year.
6 The allocation shall be in an amount equal to the average
7 monthly distribution made to each such county under the
8 preceding paragraph during the preceding calendar year
9 (excluding the 2 months of highest receipts). The distribution
10 made in March of each year subsequent to the year in which an
11 allocation was made pursuant to this paragraph and the
12 preceding paragraph shall be reduced by the amount allocated
13 and disbursed under this paragraph in the preceding calendar
14 year. The Department shall prepare and certify to the
15 Comptroller for disbursement the allocations made in
16 accordance with this paragraph.

17 (d) On and before June 30, 2008, for ~~For~~ the purpose of
18 determining the local governmental unit whose tax is
19 applicable, a retail sale by a producer of coal or another
20 mineral mined in Illinois is a sale at retail at the place
21 where the coal or other mineral mined in Illinois is extracted
22 from the earth. This paragraph does not apply to coal or
23 another mineral when it is delivered or shipped by the seller
24 to the purchaser at a point outside Illinois so that the sale
25 is exempt under the United States Constitution as a sale in
26 interstate or foreign commerce.

1 (e) Nothing in this Section shall be construed to authorize
2 a county to impose a tax upon the privilege of engaging in any
3 business that under the Constitution of the United States may
4 not be made the subject of taxation by this State.

5 (e-5) If a county imposes a tax under this Section, the
6 county board may, by ordinance, discontinue or lower the rate
7 of the tax. If the county board lowers the tax rate or
8 discontinues the tax, a referendum must be held in accordance
9 with subsection (a) of this Section in order to increase the
10 rate of the tax or to reimpose the discontinued tax.

11 (f) Beginning April 1, 1998, the results of any election
12 authorizing a proposition to impose a tax under this Section or
13 effecting a change in the rate of tax, or any ordinance
14 lowering the rate or discontinuing the tax, shall be certified
15 by the county clerk and filed with the Illinois Department of
16 Revenue either (i) on or before the first day of April,
17 whereupon the Department shall proceed to administer and
18 enforce the tax as of the first day of July next following the
19 filing; or (ii) on or before the first day of October,
20 whereupon the Department shall proceed to administer and
21 enforce the tax as of the first day of January next following
22 the filing. Beginning on July 1, 2008, an ordinance or
23 resolution imposing or discontinuing the tax hereunder or
24 effecting a change in the rate thereof shall either (i) be
25 adopted and a certified copy thereof filed with the Department
26 on or before the first day of January, whereupon the Department

1 shall proceed to administer and enforce this Section as of the
2 first day of July next following the adoption and filing; or
3 (ii) be adopted and a certified copy thereof filed with the
4 Department on or before the first day of July, whereupon the
5 Department shall proceed to administer and enforce this Section
6 as of the first day of January next following the adoption and
7 filing. Beginning on July 1, 2008, notices of local
8 jurisdiction boundary changes shall either (i) be filed with
9 the Department on or before the first day of January, whereupon
10 the Department shall proceed to administer and enforce this
11 Section in regards to such boundary changes as of the first day
12 of July next following such filing; or (ii) be filed with the
13 Department on or before the first day of July, whereupon the
14 Department shall proceed to administer and enforce this Section
15 in regards to such boundary changes as of the first day of
16 January next following the adoption and filing.

17 (g) When certifying the amount of a monthly disbursement to
18 a county under this Section, the Department shall increase or
19 decrease the amounts by an amount necessary to offset any
20 miscalculation of previous disbursements. The offset amount
21 shall be the amount erroneously disbursed within the previous 6
22 months from the time a miscalculation is discovered.

23 (h) This Section may be cited as the "Special County
24 Occupation Tax For Public Safety or Transportation Law".

25 (i) For purposes of this Section, "public safety" includes,
26 but is not limited to, crime prevention, detention, fire

1 fighting, police, medical, ambulance, or other emergency
2 services. For the purposes of this Section, "transportation"
3 includes, but is not limited to, the construction, maintenance,
4 operation, and improvement of public highways, any other
5 purpose for which a county may expend funds under the Illinois
6 Highway Code, and passenger rail transportation.

7 (Source: P.A. 93-556, eff. 8-20-03; 94-781, eff. 5-19-06.)

8 (55 ILCS 5/5-1007) (from Ch. 34, par. 5-1007)

9 Sec. 5-1007. Home Rule County Service Occupation Tax Law.
10 The corporate authorities of a home rule county may impose a
11 tax upon all persons engaged, in such county, in the business
12 of making sales of service at the same rate of tax imposed
13 pursuant to Section 5-1006 of the selling price of all tangible
14 personal property transferred by such servicemen either in the
15 form of tangible personal property or in the form of real
16 estate as an incident to a sale of service. If imposed, such
17 tax shall only be imposed in 1/4% increments. On and after
18 September 1, 1991 through June 30, 2008, this additional tax
19 may not be imposed on the sales of food for human consumption
20 which is to be consumed off the premises where it is sold
21 (other than alcoholic beverages, soft drinks and food which has
22 been prepared for immediate consumption) and prescription and
23 nonprescription medicines, drugs, medical appliances and
24 insulin, urine testing materials, syringes and needles used by
25 diabetics.

1 In order for the State to become a member of the
2 Streamlined Sales and Use Tax Agreement, it is the intent of
3 the General Assembly that the tax imposed under this Section be
4 imposed on the same base as the Service Occupation Tax Act.

5 If, on the effective date of this amendatory Act of the
6 95th General Assembly, a unit of local government has imposed a
7 tax under this Section by ordinance or resolution, or if, after
8 the effective date of this amendatory Act of the 95th General
9 Assembly, a unit of local government imposes a tax under this
10 Section by ordinance or resolution, the tax imposed by that
11 ordinance or resolution includes, on and after July 1, 2008,
12 all items subject to tax under the Service Occupation Tax Act,
13 including food and food ingredients for human consumption,
14 prescription drugs, and over the counter drugs.

15 The tax imposed by a home rule county pursuant to this
16 Section and all civil penalties that may be assessed as an
17 incident thereof shall be collected and enforced by the State
18 Department of Revenue. The certificate of registration which is
19 issued by the Department to a retailer under the Retailers'
20 Occupation Tax Act or under the Service Occupation Tax Act
21 shall permit such registrant to engage in a business which is
22 taxable under any ordinance or resolution enacted pursuant to
23 this Section without registering separately with the
24 Department under such ordinance or resolution or under this
25 Section. The Department shall have full power to administer and
26 enforce this Section; to collect all taxes and penalties due

1 hereunder; to dispose of taxes and penalties so collected in
2 the manner hereinafter provided; and to determine all rights to
3 credit memoranda arising on account of the erroneous payment of
4 tax or penalty hereunder. In the administration of, and
5 compliance with, this Section the Department and persons who
6 are subject to this Section shall have the same rights,
7 remedies, privileges, immunities, powers and duties, and be
8 subject to the same conditions, restrictions, limitations,
9 penalties and definitions of terms, and employ the same modes
10 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3
11 through 3-50 (in respect to all provisions therein other than
12 the State rate of tax), 4 (except that the reference to the
13 State shall be to the taxing county), 5, 7, 8 (except that the
14 jurisdiction to which the tax shall be a debt to the extent
15 indicated in that Section 8 shall be the taxing county), 9
16 (except as to the disposition of taxes and penalties collected,
17 and except that the returned merchandise credit for this county
18 tax may not be taken against any State tax), 10, 11, 12 (except
19 the reference therein to Section 2b of the Retailers'
20 Occupation Tax Act), 13 (except that any reference to the State
21 shall mean the taxing county), the first paragraph of Section
22 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
23 Section 3-7 of the Uniform Penalty and Interest Act, as fully
24 as if those provisions were set forth herein.

25 No tax may be imposed by a home rule county pursuant to
26 this Section unless such county also imposes a tax at the same

1 rate pursuant to Section 5-1006.

2 Persons subject to any tax imposed pursuant to the
3 authority granted in this Section may reimburse themselves for
4 their serviceman's tax liability hereunder by separately
5 stating such tax as an additional charge, which charge may be
6 stated in combination, in a single amount, with State tax which
7 servicemen are authorized to collect under the Service Use Tax
8 Act, pursuant to such bracket schedules as the Department may
9 prescribe.

10 Whenever the Department determines that a refund should be
11 made under this Section to a claimant instead of issuing credit
12 memorandum, the Department shall notify the State Comptroller,
13 who shall cause the order to be drawn for the amount specified,
14 and to the person named, in such notification from the
15 Department. Such refund shall be paid by the State Treasurer
16 out of the home rule county retailers' occupation tax fund.

17 The Department shall forthwith pay over to the State
18 Treasurer, ex-officio, as trustee, all taxes and penalties
19 collected hereunder. On or before the 25th day of each calendar
20 month, the Department shall prepare and certify to the
21 Comptroller the disbursement of stated sums of money to named
22 counties, the counties to be those from which suppliers and
23 servicemen have paid taxes or penalties hereunder to the
24 Department during the second preceding calendar month. The
25 amount to be paid to each county shall be the amount (not
26 including credit memoranda) collected hereunder during the

1 second preceding calendar month by the Department, and not
2 including an amount equal to the amount of refunds made during
3 the second preceding calendar month by the Department on behalf
4 of such county. Within 10 days after receipt, by the
5 Comptroller, of the disbursement certification to the counties
6 provided for in this Section to be given to the Comptroller by
7 the Department, the Comptroller shall cause the orders to be
8 drawn for the respective amounts in accordance with the
9 directions contained in such certification.

10 In addition to the disbursement required by the preceding
11 paragraph, an allocation shall be made in each year to each
12 county which received more than \$500,000 in disbursements under
13 the preceding paragraph in the preceding calendar year. The
14 allocation shall be in an amount equal to the average monthly
15 distribution made to each such county under the preceding
16 paragraph during the preceding calendar year (excluding the 2
17 months of highest receipts). The distribution made in March of
18 each year subsequent to the year in which an allocation was
19 made pursuant to this paragraph and the preceding paragraph
20 shall be reduced by the amount allocated and disbursed under
21 this paragraph in the preceding calendar year. The Department
22 shall prepare and certify to the Comptroller for disbursement
23 the allocations made in accordance with this paragraph.

24 Nothing in this Section shall be construed to authorize a
25 county to impose a tax upon the privilege of engaging in any
26 business which under the Constitution of the United States may

1 not be made the subject of taxation by this State.

2 An ordinance or resolution imposing or discontinuing a tax
3 hereunder or effecting a change in the rate thereof shall be
4 adopted and a certified copy thereof filed with the Department
5 on or before the first day of June, whereupon the Department
6 shall proceed to administer and enforce this Section as of the
7 first day of September next following such adoption and filing.
8 Beginning January 1, 1992, an ordinance or resolution imposing
9 or discontinuing the tax hereunder or effecting a change in the
10 rate thereof shall be adopted and a certified copy thereof
11 filed with the Department on or before the first day of July,
12 whereupon the Department shall proceed to administer and
13 enforce this Section as of the first day of October next
14 following such adoption and filing. Beginning January 1, 1993,
15 an ordinance or resolution imposing or discontinuing the tax
16 hereunder or effecting a change in the rate thereof shall be
17 adopted and a certified copy thereof filed with the Department
18 on or before the first day of October, whereupon the Department
19 shall proceed to administer and enforce this Section as of the
20 first day of January next following such adoption and filing.
21 Beginning April 1, 1998, an ordinance or resolution imposing or
22 discontinuing the tax hereunder or effecting a change in the
23 rate thereof shall either (i) be adopted and a certified copy
24 thereof filed with the Department on or before the first day of
25 April, whereupon the Department shall proceed to administer and
26 enforce this Section as of the first day of July next following

1 the adoption and filing; or (ii) be adopted and a certified
2 copy thereof filed with the Department on or before the first
3 day of October, whereupon the Department shall proceed to
4 administer and enforce this Section as of the first day of
5 January next following the adoption and filing. Beginning on
6 July 1, 2008, an ordinance or resolution imposing or
7 discontinuing the tax hereunder or effecting a change in the
8 rate thereof shall either (i) be adopted and a certified copy
9 thereof filed with the Department on or before the first day of
10 January, whereupon the Department shall proceed to administer
11 and enforce this Section as of the first day of July next
12 following the adoption and filing; or (ii) be adopted and a
13 certified copy thereof filed with the Department on or before
14 the first day of July, whereupon the Department shall proceed
15 to administer and enforce this Section as of the first day of
16 January next following the adoption and filing. Beginning on
17 July 1, 2008, notices of local jurisdiction boundary changes
18 shall either (i) be filed with the Department on or before the
19 first day of January, whereupon the Department shall proceed to
20 administer and enforce this Section in regards to such boundary
21 changes as of the first day of July next following such filing;
22 or (ii) be filed with the Department on or before the first day
23 of July, whereupon the Department shall proceed to administer
24 and enforce this Section in regards to such boundary changes as
25 of the first day of January next following the adoption and
26 filing.

1 This Section shall be known and may be cited as the Home
2 Rule County Service Occupation Tax Law.

3 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

4 (55 ILCS 5/5-1008.5)

5 Sec. 5-1008.5. Use and occupation taxes.

6 (a) The Rock Island County Board may adopt a resolution
7 that authorizes a referendum on the question of whether the
8 county shall be authorized to impose a retailers' occupation
9 tax, a service occupation tax, and a use tax at a rate of 1/4 of
10 1% on behalf of the economic development activities of Rock
11 Island County and communities located within the county. The
12 county board shall certify the question to the proper election
13 authorities who shall submit the question to the voters of the
14 county at the next regularly scheduled election in accordance
15 with the general election law. The question shall be in
16 substantially the following form:

17 Shall Rock Island County be authorized to impose a
18 retailers' occupation tax, a service occupation tax, and a
19 use tax at the rate of 1/4 of 1% for the sole purpose of
20 economic development activities, including creation and
21 retention of job opportunities, support of affordable
22 housing opportunities, and enhancement of quality of life
23 improvements?

24 Votes shall be recorded as "yes" or "no". If a majority of
25 all votes cast on the proposition are in favor of the

1 proposition, the county is authorized to impose the tax.

2 (b) The county shall impose the retailers' occupation tax
3 upon all persons engaged in the business of selling tangible
4 personal property at retail in the county, at the rate approved
5 by referendum, on the gross receipts from the sales made in the
6 course of those businesses within the county. Through June 30,
7 2008, this ~~This~~ additional tax may not be imposed on the sale
8 of food for human consumption that is to be consumed off the
9 premises where it is sold (other than alcoholic beverages, soft
10 drinks, and food that has been prepared for immediate
11 consumption) and prescription and non-prescription medicines,
12 drugs, medical appliances and insulin, urine testing
13 materials, syringes, and needles used by diabetics.

14 In order for the State to become a member of the
15 Streamlined Sales and Use Tax Agreement and in recognition of
16 the rapidly expanding technologies by which prewritten
17 computer software is transferred, it is the intent of the
18 General Assembly that the tax imposed under this subsection be
19 imposed on the same base as the Retailers' Occupation Tax Act
20 and that the tax on prewritten computer software be applied
21 regardless of the manner in which the prewritten computer
22 software is transferred.

23 If, on the effective date of this amendatory Act of the
24 95th General Assembly, a unit of local government has imposed a
25 tax under this subsection by ordinance or resolution, or if,
26 after the effective date of this amendatory Act of the 95th

1 General Assembly, a unit of local government imposes a tax
2 under this subsection by ordinance or resolution, the tax
3 imposed by that ordinance or resolution includes transfers of
4 prewritten computer software and, on and after July 1, 2008,
5 all items subject to tax under the Retailers' Occupation Tax
6 Act, including but not limited to food and food ingredients for
7 human consumption, prescription drugs, and over the counter
8 drugs.

9 The tax imposed under this Section and all civil penalties
10 that may be assessed as an incident of the tax shall be
11 collected and enforced by the Department of Revenue. The
12 Department has full power to administer and enforce this
13 Section; to collect all taxes and penalties so collected in the
14 manner provided in this Section; and to determine all rights to
15 credit memoranda arising on account of the erroneous payment of
16 tax or penalty under this Section. In the administration of,
17 and compliance with, this Section, the Department and persons
18 who are subject to this Section shall (i) have the same rights,
19 remedies, privileges, immunities, powers and duties, (ii) be
20 subject to the same conditions, restrictions, limitations,
21 penalties, exclusions, exemptions, and definitions of terms,
22 and (iii) employ the same modes of procedure as are prescribed
23 in Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2,
24 2-5, 2-5.5, 2-10 (in respect to all provisions other than the
25 State rate of tax), 2-10.2 ~~2-15~~ through 2-70, 2a, 2b, 2c, 3
26 (except as to the disposition of taxes and penalties collected

1 and provisions related to quarter monthly payments), 3.5, 3.6,
2 3.8, 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a,
3 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers'
4 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
5 Interest Act, as fully as if those provisions were set forth in
6 this subsection.

7 Persons subject to any tax imposed under this subsection
8 may reimburse themselves for their seller's tax liability by
9 separately stating the tax as an additional charge, which
10 charge may be stated in combination, in a single amount, with
11 State taxes that sellers are required to collect, in accordance
12 with bracket schedules prescribed by the Department.

13 Whenever the Department determines that a refund should be
14 made under this subsection to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the warrant to be drawn for the
17 amount specified, and to the person named, in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of the tax fund referenced under paragraph (g) of
20 this Section.

21 If a tax is imposed under this subsection (b), a tax shall
22 also be imposed at the same rate under subsections (c) and (d)
23 of this Section.

24 On and before June 30, 2008, for ~~For~~ the purpose of
25 determining whether a tax authorized under this Section is
26 applicable, a retail sale, by a producer of coal or another

1 mineral mined in Illinois, is a sale at retail at the place
2 where the coal or other mineral mined in Illinois is extracted
3 from the earth. This paragraph does not apply to coal or
4 another mineral when it is delivered or shipped by the seller
5 to the purchaser at a point outside Illinois so that the sale
6 is exempt under the federal Constitution as a sale in
7 interstate or foreign commerce.

8 Nothing in this Section shall be construed to authorize the
9 county to impose a tax upon the privilege of engaging in any
10 business that under the Constitution of the United States may
11 not be made the subject of taxation by this State.

12 (c) If a tax has been imposed under subsection (b), a
13 service occupation tax shall also be imposed at the same rate
14 upon all persons engaged, in the county, in the business of
15 making sales of service, who, as an incident to making those
16 sales of service, transfer tangible personal property within
17 the county as an incident to a sale of service. Through June
18 30, 2008, this ~~This~~ additional tax may not be imposed on the
19 sale of food for human consumption that is to be consumed off
20 the premises where it is sold (other than alcoholic beverages,
21 soft drinks, and food that has been prepared for immediate
22 consumption) and prescription and non-prescription medicines,
23 drugs, medical appliances and insulin, urine testing
24 materials, syringes, and needles used by diabetics.

25 In order for the State to become a member of the
26 Streamlined Sales and Use Tax Agreement, it is the intent of

1 the General Assembly that the tax imposed under this subsection
2 be imposed on the same base as the Retailers' Occupation Tax
3 Act.

4 If, on the effective date of this amendatory Act of the
5 95th General Assembly, a unit of local government has imposed a
6 tax under this subsection by ordinance or resolution, or if,
7 after the effective date of this amendatory Act of the 95th
8 General Assembly, a unit of local government imposes a tax
9 under this subsection by ordinance or resolution, the tax
10 imposed by that ordinance or resolution includes, on and after
11 July 1, 2008, all items subject to tax under the Retailers'
12 Occupation Tax Act, including food and food ingredients for
13 human consumption, prescription drugs, and over the counter
14 drugs.

15 The tax imposed under this subsection and all civil
16 penalties that may be assessed as an incident of the tax shall
17 be collected and enforced by the Department of Revenue. The
18 Department has full power to administer and enforce this
19 paragraph; to collect all taxes and penalties due under this
20 Section; to dispose of taxes and penalties so collected in the
21 manner provided in this Section; and to determine all rights to
22 credit memoranda arising on account of the erroneous payment of
23 tax or penalty under this Section. In the administration of,
24 and compliance with this paragraph, the Department and persons
25 who are subject to this paragraph shall (i) have the same
26 rights, remedies, privileges, immunities, powers, and duties,

1 (ii) be subject to the same conditions, restrictions,
2 limitations, penalties, exclusions, exemptions, and
3 definitions of terms, and (iii) employ the same modes of
4 procedure as are prescribed in Sections 2 (except that the
5 reference to State in the definition of supplier maintaining a
6 place of business in this State shall mean the county), 2a, 2b,
7 3 through 3-55 (in respect to all provisions other than the
8 State rate of tax), 4 (except that the reference to the State
9 shall be to the county), 5, 7, 8 (except that the jurisdiction
10 to which the tax shall be a debt to the extent indicated in
11 that Section 8 shall be the county), 9 (except as to the
12 disposition of taxes and penalties collected, and except that
13 the returned merchandise credit for this tax may not be taken
14 against any State tax), 11, 12 (except the reference to Section
15 2b of the Retailers' Occupation Tax Act), 13 (except that any
16 reference to the State shall mean the county), 15, 16, 17, 18,
17 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
18 the Uniform Penalty and Interest Act, as fully as if those
19 provisions were set forth in this subsection.

20 Persons subject to any tax imposed under the authority
21 granted in this subsection may reimburse themselves for their
22 serviceman's tax liability by separately stating the tax as an
23 additional charge, which charge may be stated in combination,
24 in a single amount, with State tax that servicemen are
25 authorized to collect under the Service Use Tax Act, in
26 accordance with bracket schedules prescribed by the

1 Department.

2 Whenever the Department determines that a refund should be
3 made under this subsection to a claimant instead of issuing a
4 credit memorandum, the Department shall notify the State
5 Comptroller, who shall cause the warrant to be drawn for the
6 amount specified, and to the person named, in the notification
7 from the Department. The refund shall be paid by the State
8 Treasurer out of the tax fund referenced under paragraph (g) of
9 this Section.

10 Nothing in this paragraph shall be construed to authorize
11 the county to impose a tax upon the privilege of engaging in
12 any business that under the Constitution of the United States
13 may not be made the subject of taxation by the State.

14 (d) If a tax has been imposed under subsection (b), a use
15 tax shall also be imposed at the same rate upon the privilege
16 of using, in the county, any item of tangible personal property
17 that is purchased outside the county at retail from a retailer,
18 and that is titled or registered at a location within the
19 county with an agency of this State's government. ~~This~~
20 ~~additional tax may not be imposed on the sale of food for human~~
21 ~~consumption that is to be consumed off the premises where it is~~
22 ~~sold (other than alcoholic beverages, soft drinks, and food~~
23 ~~that has been prepared for immediate consumption) and~~
24 ~~prescription and non-prescription medicines, drugs, medical~~
25 ~~appliances and insulin, urine testing materials, syringes, and~~
26 ~~needles used by diabetics.~~ "Selling price" is defined as in the

1 Use Tax Act. The tax shall be collected from persons whose
2 Illinois address for titling or registration purposes is given
3 as being in the county. The tax shall be collected by the
4 Department of Revenue for the county. The tax must be paid to
5 the State, or an exemption determination must be obtained from
6 the Department of Revenue, before the title or certificate of
7 registration for the property may be issued. The tax or proof
8 of exemption may be transmitted to the Department by way of the
9 State agency with which, or the State officer with whom, the
10 tangible personal property must be titled or registered if the
11 Department and the State agency or State officer determine that
12 this procedure will expedite the processing of applications for
13 title or registration.

14 The Department has full power to administer and enforce
15 this paragraph; to collect all taxes, penalties, and interest
16 due under this Section; to dispose of taxes, penalties, and
17 interest so collected in the manner provided in this Section;
18 and to determine all rights to credit memoranda or refunds
19 arising on account of the erroneous payment of tax, penalty, or
20 interest under this Section. In the administration of, and
21 compliance with, this subsection, the Department and persons
22 who are subject to this paragraph shall (i) have the same
23 rights, remedies, privileges, immunities, powers, and duties,
24 (ii) be subject to the same conditions, restrictions,
25 limitations, penalties, exclusions, exemptions, and
26 definitions of terms, and (iii) employ the same modes of

1 procedure as are prescribed in Sections 2 (except the
2 definition of "retailer maintaining a place of business in this
3 State"), 3, 3-5, 3-10, 3-10.2, 3-10.3, 3-10.5, 3-25, 3-45,
4 3-55, 3-65, 3-70, 3-85, 3a, 4, 6, 7, 8 (except that the
5 jurisdiction to which the tax shall be a debt to the extent
6 indicated in that Section 8 shall be the county), 9 (except
7 provisions relating to quarter monthly payments), 10, 11, 12,
8 12a, 12b, 13, 14, 15, 19, 20, 21, ~~and 22,~~ and 23 of the Use Tax
9 Act and Section 3-7 of the Uniform Penalty and Interest Act,
10 that are not inconsistent with this paragraph, as fully as if
11 those provisions were set forth in this subsection.

12 Whenever the Department determines that a refund should be
13 made under this subsection to a claimant instead of issuing a
14 credit memorandum, the Department shall notify the State
15 Comptroller, who shall cause the order to be drawn for the
16 amount specified, and to the person named, in the notification
17 from the Department. The refund shall be paid by the State
18 Treasurer out of the tax fund referenced under paragraph (g) of
19 this Section.

20 (e) A certificate of registration issued by the State
21 Department of Revenue to a retailer under the Retailers'
22 Occupation Tax Act or under the Service Occupation Tax Act
23 shall permit the registrant to engage in a business that is
24 taxed under the tax imposed under paragraphs (b), (c), or (d)
25 of this Section and no additional registration shall be
26 required. A certificate issued under the Use Tax Act or the

1 Service Use Tax Act shall be applicable with regard to any tax
2 imposed under paragraph (c) of this Section.

3 (f) The results of any election authorizing a proposition
4 to impose a tax under this Section or effecting a change in the
5 rate of tax shall be certified by the proper election
6 authorities and filed with the Illinois Department on or before
7 the first day of October. In addition, an ordinance imposing,
8 discontinuing, or effecting a change in the rate of tax under
9 this Section shall be adopted and a certified copy of the
10 ordinance filed with the Department on or before the first day
11 of October. After proper receipt of the certifications, the
12 Department shall proceed to administer and enforce this Section
13 as of the first day of January next following the adoption and
14 filing. Beginning on July 1, 2008, an ordinance or resolution
15 imposing or discontinuing the tax hereunder or effecting a
16 change in the rate thereof shall either (i) be adopted and a
17 certified copy thereof filed with the Department on or before
18 the first day of January, whereupon the Department shall
19 proceed to administer and enforce this Section as of the first
20 day of July next following the adoption and filing; or (ii) be
21 adopted and a certified copy thereof filed with the Department
22 on or before the first day of July, whereupon the Department
23 shall proceed to administer and enforce this Section as of the
24 first day of January next following the adoption and filing.
25 Beginning on July 1, 2008, notices of local jurisdiction
26 boundary changes shall either (i) be filed with the Department

1 on or before the first day of January, whereupon the Department
2 shall proceed to administer and enforce this Section in regards
3 to such boundary changes as of the first day of July next
4 following such filing; or (ii) be filed with the Department on
5 or before the first day of July, whereupon the Department shall
6 proceed to administer and enforce this Section in regards to
7 such boundary changes as of the first day of January next
8 following the adoption and filing.

9 (g) The Department of Revenue shall, upon collecting any
10 taxes and penalties as provided in this Section, pay the taxes
11 and penalties over to the State Treasurer as trustee for the
12 county. The taxes and penalties shall be held in a trust fund
13 outside the State Treasury. On or before the 25th day of each
14 calendar month, the Department of Revenue shall prepare and
15 certify to the Comptroller of the State of Illinois the amount
16 to be paid to the county, which shall be the balance in the
17 fund, less any amount determined by the Department to be
18 necessary for the payment of refunds. Within 10 days after
19 receipt by the Comptroller of the certification of the amount
20 to be paid to the county, the Comptroller shall cause an order
21 to be drawn for payment for the amount in accordance with the
22 directions contained in the certification. Amounts received
23 from the tax imposed under this Section shall be used only for
24 the economic development activities of the county and
25 communities located within the county.

26 (h) When certifying the amount of a monthly disbursement to

1 the county under this Section, the Department shall increase or
2 decrease the amounts by an amount necessary to offset any
3 miscalculation of previous disbursements. The offset amount
4 shall be the amount erroneously disbursed within the previous 6
5 months from the time a miscalculation is discovered.

6 (i) This Section may be cited as the Rock Island County Use
7 and Occupation Tax Law.

8 (Source: P.A. 90-415, eff. 8-15-97.)

9 (55 ILCS 5/5-1009) (from Ch. 34, par. 5-1009)

10 Sec. 5-1009. Limitation on home rule powers. Except as
11 provided in Sections 5-1006, 5-1006.5, 5-1007 and 5-1008, on
12 and after September 1, 1990, no home rule county has the
13 authority to impose, pursuant to its home rule authority, a
14 retailer's occupation tax, service occupation tax, use tax,
15 sales tax or other tax on the use, sale or purchase of tangible
16 personal property based on the gross receipts from such sales
17 or the selling or purchase price of said tangible personal
18 property. Notwithstanding the foregoing, this Section does not
19 preempt any home rule imposed tax such as the following: (1)
20 through June 30, 2008, a tax on alcoholic beverages, whether
21 based on gross receipts, volume sold or any other measurement
22 and beginning on July 1, 2008, a tax on alcoholic beverages,
23 whether based on volume sold or any other measurement other
24 than gross receipts; (2) a tax based on the number of units of
25 cigarettes or tobacco products; (3) a tax, however measured,

1 based on the use of a hotel or motel room or similar facility;
2 (4) a tax, however measured, on the sale or transfer of real
3 property; (5) a tax, however measured, on lease receipts; (6) a
4 tax on food prepared for immediate consumption and on alcoholic
5 beverages sold by a business which provides for on premise
6 consumption of said food or alcoholic beverages; or (7) other
7 taxes not based on the selling or purchase price or gross
8 receipts from the use, sale or purchase of tangible personal
9 property. This Section is a limitation, pursuant to subsection
10 (g) of Section 6 of Article VII of the Illinois Constitution,
11 on the power of home rule units to tax.
12 (Source: P.A. 91-51, eff. 6-30-99.)

13 Section 40. The Illinois Municipal Code is amended by
14 changing Sections 8-11-1, 8-11-1.1, 8-11-1.3, 8-11-1.4,
15 8-11-1.6, 8-11-1.7, 8-11-5, 8-11-6, 8-11-6a, 8-11-6b, and
16 11-74.3-6 as follows:

17 (65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

18 Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax
19 Act. The corporate authorities of a home rule municipality may
20 impose a tax upon all persons engaged in the business of
21 selling tangible personal property, other than an item of
22 tangible personal property titled or registered with an agency
23 of this State's government, at retail in the municipality on
24 the gross receipts from these sales made in the course of such

1 business. If imposed, the tax shall only be imposed in 1/4%
2 increments. On and after September 1, 1991 and through June 30,
3 2008, this additional tax may not be imposed on the sales of
4 food for human consumption that is to be consumed off the
5 premises where it is sold (other than alcoholic beverages, soft
6 drinks and food that has been prepared for immediate
7 consumption) and prescription and nonprescription medicines,
8 drugs, medical appliances and insulin, urine testing
9 materials, syringes and needles used by diabetics.

10 In order for the State to become a member of the
11 Streamlined Sales and Use Tax Agreement and in recognition of
12 the rapidly expanding technologies by which prewritten
13 computer software is transferred, it is the intent of the
14 General Assembly that the tax imposed under this Section be
15 imposed on the same base as the Retailers' Occupation Tax Act
16 and that the tax on prewritten computer software be applied
17 regardless of the manner in which the prewritten computer
18 software is transferred.

19 If, on the effective date of this amendatory Act of the
20 95th General Assembly, a unit of local government has imposed a
21 tax under this Section by ordinance or resolution, or if, after
22 the effective date of this amendatory Act of the 95th General
23 Assembly, a unit of local government imposes a tax under this
24 Section by ordinance or resolution, the tax imposed by that
25 ordinance or resolution includes transfers of prewritten
26 computer software and, on and after July 1, 2008, all items

1 subject to tax under the Retailers' Occupation Tax Act,
2 including but not limited to food and food ingredients for
3 human consumption, prescription drugs, and over the counter
4 drugs.

5 The tax imposed by a home rule municipality under this
6 Section and all civil penalties that may be assessed as an
7 incident of the tax shall be collected and enforced by the
8 State Department of Revenue. The certificate of registration
9 that is issued by the Department to a retailer under the
10 Retailers' Occupation Tax Act shall permit the retailer to
11 engage in a business that is taxable under any ordinance or
12 resolution enacted pursuant to this Section without
13 registering separately with the Department under such
14 ordinance or resolution or under this Section. The Department
15 shall have full power to administer and enforce this Section;
16 to collect all taxes and penalties due hereunder; to dispose of
17 taxes and penalties so collected in the manner hereinafter
18 provided; and to determine all rights to credit memoranda
19 arising on account of the erroneous payment of tax or penalty
20 hereunder. In the administration of, and compliance with, this
21 Section the Department and persons who are subject to this
22 Section shall have the same rights, remedies, privileges,
23 immunities, powers and duties, and be subject to the same
24 conditions, restrictions, limitations, penalties and
25 definitions of terms, and employ the same modes of procedure,
26 as are prescribed in Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k,

1 1m, 1n, 2 through 2-65 (in respect to all provisions therein
2 other than the State rate of tax), 2c, 3 (except as to the
3 disposition of taxes and penalties collected), 3.5, 3.6, 3.8,
4 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b,
5 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax
6 Act and Section 3-7 of the Uniform Penalty and Interest Act, as
7 fully as if those provisions were set forth herein.

8 No tax may be imposed by a home rule municipality under
9 this Section unless the municipality also imposes a tax at the
10 same rate under Section 8-11-5 of this Act.

11 Persons subject to any tax imposed under the authority
12 granted in this Section may reimburse themselves for their
13 seller's tax liability hereunder by separately stating that tax
14 as an additional charge, which charge may be stated in
15 combination, in a single amount, with State tax which sellers
16 are required to collect under the Use Tax Act, and, through
17 June 30, 2008, the sellers may collect such tax pursuant to
18 such bracket schedules as the Department may prescribe.

19 Whenever the Department determines that a refund should be
20 made under this Section to a claimant instead of issuing a
21 credit memorandum, the Department shall notify the State
22 Comptroller, who shall cause the order to be drawn for the
23 amount specified and to the person named in the notification
24 from the Department. The refund shall be paid by the State
25 Treasurer out of the home rule municipal retailers' occupation
26 tax fund.

1 The Department shall immediately pay over to the State
2 Treasurer, ex officio, as trustee, all taxes and penalties
3 collected hereunder. On or before the 25th day of each calendar
4 month, the Department shall prepare and certify to the
5 Comptroller the disbursement of stated sums of money to named
6 municipalities, the municipalities to be those from which
7 retailers have paid taxes or penalties hereunder to the
8 Department during the second preceding calendar month. The
9 amount to be paid to each municipality shall be the amount (not
10 including credit memoranda) collected hereunder during the
11 second preceding calendar month by the Department plus an
12 amount the Department determines is necessary to offset any
13 amounts that were erroneously paid to a different taxing body,
14 and not including an amount equal to the amount of refunds made
15 during the second preceding calendar month by the Department on
16 behalf of such municipality, and not including any amount that
17 the Department determines is necessary to offset any amounts
18 that were payable to a different taxing body but were
19 erroneously paid to the municipality. Within 10 days after
20 receipt by the Comptroller of the disbursement certification to
21 the municipalities provided for in this Section to be given to
22 the Comptroller by the Department, the Comptroller shall cause
23 the orders to be drawn for the respective amounts in accordance
24 with the directions contained in the certification.

25 In addition to the disbursement required by the preceding
26 paragraph and in order to mitigate delays caused by

1 distribution procedures, an allocation shall, if requested, be
2 made within 10 days after January 14, 1991, and in November of
3 1991 and each year thereafter, to each municipality that
4 received more than \$500,000 during the preceding fiscal year,
5 (July 1 through June 30) whether collected by the municipality
6 or disbursed by the Department as required by this Section.
7 Within 10 days after January 14, 1991, participating
8 municipalities shall notify the Department in writing of their
9 intent to participate. In addition, for the initial
10 distribution, participating municipalities shall certify to
11 the Department the amounts collected by the municipality for
12 each month under its home rule occupation and service
13 occupation tax during the period July 1, 1989 through June 30,
14 1990. The allocation within 10 days after January 14, 1991,
15 shall be in an amount equal to the monthly average of these
16 amounts, excluding the 2 months of highest receipts. The
17 monthly average for the period of July 1, 1990 through June 30,
18 1991 will be determined as follows: the amounts collected by
19 the municipality under its home rule occupation and service
20 occupation tax during the period of July 1, 1990 through
21 September 30, 1990, plus amounts collected by the Department
22 and paid to such municipality through June 30, 1991, excluding
23 the 2 months of highest receipts. The monthly average for each
24 subsequent period of July 1 through June 30 shall be an amount
25 equal to the monthly distribution made to each such
26 municipality under the preceding paragraph during this period,

1 excluding the 2 months of highest receipts. The distribution
2 made in November 1991 and each year thereafter under this
3 paragraph and the preceding paragraph shall be reduced by the
4 amount allocated and disbursed under this paragraph in the
5 preceding period of July 1 through June 30. The Department
6 shall prepare and certify to the Comptroller for disbursement
7 the allocations made in accordance with this paragraph.

8 On and before June 30, 2008, for ~~For~~ the purpose of
9 determining the local governmental unit whose tax is
10 applicable, a retail sale by a producer of coal or other
11 mineral mined in Illinois is a sale at retail at the place
12 where the coal or other mineral mined in Illinois is extracted
13 from the earth. This paragraph does not apply to coal or other
14 mineral when it is delivered or shipped by the seller to the
15 purchaser at a point outside Illinois so that the sale is
16 exempt under the United States Constitution as a sale in
17 interstate or foreign commerce.

18 Nothing in this Section shall be construed to authorize a
19 municipality to impose a tax upon the privilege of engaging in
20 any business which under the Constitution of the United States
21 may not be made the subject of taxation by this State.

22 An ordinance or resolution imposing or discontinuing a tax
23 hereunder or effecting a change in the rate thereof shall be
24 adopted and a certified copy thereof filed with the Department
25 on or before the first day of June, whereupon the Department
26 shall proceed to administer and enforce this Section as of the

1 first day of September next following the adoption and filing.
2 Beginning January 1, 1992, an ordinance or resolution imposing
3 or discontinuing the tax hereunder or effecting a change in the
4 rate thereof shall be adopted and a certified copy thereof
5 filed with the Department on or before the first day of July,
6 whereupon the Department shall proceed to administer and
7 enforce this Section as of the first day of October next
8 following such adoption and filing. Beginning January 1, 1993,
9 an ordinance or resolution imposing or discontinuing the tax
10 hereunder or effecting a change in the rate thereof shall be
11 adopted and a certified copy thereof filed with the Department
12 on or before the first day of October, whereupon the Department
13 shall proceed to administer and enforce this Section as of the
14 first day of January next following the adoption and filing.
15 However, a municipality located in a county with a population
16 in excess of 3,000,000 that elected to become a home rule unit
17 at the general primary election in 1994 may adopt an ordinance
18 or resolution imposing the tax under this Section and file a
19 certified copy of the ordinance or resolution with the
20 Department on or before July 1, 1994. The Department shall then
21 proceed to administer and enforce this Section as of October 1,
22 1994. Beginning April 1, 1998, an ordinance or resolution
23 imposing or discontinuing the tax hereunder or effecting a
24 change in the rate thereof shall either (i) be adopted and a
25 certified copy thereof filed with the Department on or before
26 the first day of April, whereupon the Department shall proceed

1 to administer and enforce this Section as of the first day of
2 July next following the adoption and filing; or (ii) be adopted
3 and a certified copy thereof filed with the Department on or
4 before the first day of October, whereupon the Department shall
5 proceed to administer and enforce this Section as of the first
6 day of January next following the adoption and filing.
7 Beginning on July 1, 2008, an ordinance or resolution imposing
8 or discontinuing the tax hereunder or effecting a change in the
9 rate thereof shall either (i) be adopted and a certified copy
10 thereof filed with the Department on or before the first day of
11 January, whereupon the Department shall proceed to administer
12 and enforce this Section as of the first day of July next
13 following the adoption and filing; or (ii) be adopted and a
14 certified copy thereof filed with the Department on or before
15 the first day of July, whereupon the Department shall proceed
16 to administer and enforce this Section as of the first day of
17 January next following the adoption and filing. Beginning on
18 July 1, 2008, notices of local jurisdiction boundary changes
19 shall either (i) be filed with the Department on or before the
20 first day of January, whereupon the Department shall proceed to
21 administer and enforce this Section in regards to such boundary
22 changes as of the first day of July next following such filing;
23 or (ii) be filed with the Department on or before the first day
24 of July, whereupon the Department shall proceed to administer
25 and enforce this Section in regards to such boundary changes as
26 of the first day of January next following the adoption and

1 filing.

2 When certifying the amount of a monthly disbursement to a
3 municipality under this Section, the Department shall increase
4 or decrease the amount by an amount necessary to offset any
5 misallocation of previous disbursements. The offset amount
6 shall be the amount erroneously disbursed within the previous 6
7 months from the time a misallocation is discovered.

8 Any unobligated balance remaining in the Municipal
9 Retailers' Occupation Tax Fund on December 31, 1989, which fund
10 was abolished by Public Act 85-1135, and all receipts of
11 municipal tax as a result of audits of liability periods prior
12 to January 1, 1990, shall be paid into the Local Government Tax
13 Fund for distribution as provided by this Section prior to the
14 enactment of Public Act 85-1135. All receipts of municipal tax
15 as a result of an assessment not arising from an audit, for
16 liability periods prior to January 1, 1990, shall be paid into
17 the Local Government Tax Fund for distribution before July 1,
18 1990, as provided by this Section prior to the enactment of
19 Public Act 85-1135; and on and after July 1, 1990, all such
20 receipts shall be distributed as provided in Section 6z-18 of
21 the State Finance Act.

22 As used in this Section, "municipal" and "municipality"
23 means a city, village or incorporated town, including an
24 incorporated town that has superseded a civil township.

25 This Section shall be known and may be cited as the Home
26 Rule Municipal Retailers' Occupation Tax Act.

1 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

2 (65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

3 Sec. 8-11-1.1. Non-home rule municipalities; imposition of
4 taxes.

5 (a) The corporate authorities of a non-home rule
6 municipality may, upon approval of the electors of the
7 municipality pursuant to subsection (b) of this Section, impose
8 by ordinance or resolution the tax authorized in Sections
9 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.

10 (b) The corporate authorities of the municipality may by
11 ordinance or resolution call for the submission to the electors
12 of the municipality the question of whether the municipality
13 shall impose such tax. Such question shall be certified by the
14 municipal clerk to the election authority in accordance with
15 Section 28-5 of the Election Code and shall be in a form in
16 accordance with Section 16-7 of the Election Code.

17 If a majority of the electors in the municipality voting
18 upon the question vote in the affirmative, such tax shall be
19 imposed.

20 An ordinance or resolution imposing the tax of not more
21 than 1% hereunder or discontinuing the same shall be adopted
22 and a certified copy thereof, together with a certification
23 that the ordinance or resolution received referendum approval
24 in the case of the imposition of such tax, filed with the
25 Department of Revenue, on or before the first day of June,

1 whereupon the Department shall proceed to administer and
2 enforce the additional tax or to discontinue the tax, as the
3 case may be, as of the first day of September next following
4 such adoption and filing. Beginning January 1, 1992, an
5 ordinance or resolution imposing or discontinuing the tax
6 hereunder shall be adopted and a certified copy thereof filed
7 with the Department on or before the first day of July,
8 whereupon the Department shall proceed to administer and
9 enforce this Section as of the first day of October next
10 following such adoption and filing. Beginning January 1, 1993,
11 an ordinance or resolution imposing or discontinuing the tax
12 hereunder shall be adopted and a certified copy thereof filed
13 with the Department on or before the first day of October,
14 whereupon the Department shall proceed to administer and
15 enforce this Section as of the first day of January next
16 following such adoption and filing. Beginning October 1, 2002,
17 an ordinance or resolution imposing or discontinuing the tax
18 under this Section or effecting a change in the rate of tax
19 must either (i) be adopted and a certified copy of the
20 ordinance or resolution filed with the Department on or before
21 the first day of April, whereupon the Department shall proceed
22 to administer and enforce this Section as of the first day of
23 July next following the adoption and filing; or (ii) be adopted
24 and a certified copy of the ordinance or resolution filed with
25 the Department on or before the first day of October, whereupon
26 the Department shall proceed to administer and enforce this

1 Section as of the first day of January next following the
2 adoption and filing. A non-home rule municipality may file a
3 certified copy of an ordinance or resolution, with a
4 certification that the ordinance or resolution received
5 referendum approval in the case of the imposition of the tax,
6 with the Department of Revenue, as required under this Section,
7 only after October 2, 2000.

8 Beginning on July 1, 2008, an ordinance or resolution
9 imposing or discontinuing the tax hereunder or effecting a
10 change in the rate thereof shall either (i) be adopted and a
11 certified copy thereof filed with the Department on or before
12 the first day of January, whereupon the Department shall
13 proceed to administer and enforce this Section as of the first
14 day of July next following the adoption and filing; or (ii) be
15 adopted and a certified copy thereof filed with the Department
16 on or before the first day of July, whereupon the Department
17 shall proceed to administer and enforce this Section as of the
18 first day of January next following the adoption and filing.

19 Beginning on July 1, 2008, notices of local jurisdiction
20 boundary changes shall either (i) be filed with the Department
21 on or before the first day of January, whereupon the Department
22 shall proceed to administer and enforce this Section in regards
23 to such boundary changes as of the first day of July next
24 following such filing; or (ii) be filed with the Department on
25 or before the first day of July, whereupon the Department shall
26 proceed to administer and enforce this Section in regards to

1 such boundary changes as of the first day of January next
2 following the adoption and filing.

3 The tax authorized by this Section may not be more than 1%
4 and may be imposed only in 1/4% increments.

5 (Source: P.A. 94-679, eff. 1-1-06.)

6 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

7 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
8 Occupation Tax Act. The corporate authorities of a non-home
9 rule municipality may impose a tax upon all persons engaged in
10 the business of selling tangible personal property, other than
11 on an item of tangible personal property which is titled and
12 registered by an agency of this State's Government, at retail
13 in the municipality for expenditure on public infrastructure or
14 for property tax relief or both as defined in Section 8-11-1.2
15 if approved by referendum as provided in Section 8-11-1.1, of
16 the gross receipts from such sales made in the course of such
17 business. The tax imposed may not be more than 1% and may be
18 imposed only in 1/4% increments. Through June 30, 2008, the ~~The~~
19 tax may not be imposed on the sale of food for human
20 consumption that is to be consumed off the premises where it is
21 sold (other than alcoholic beverages, soft drinks, and food
22 that has been prepared for immediate consumption) and
23 prescription and nonprescription medicines, drugs, medical
24 appliances, and insulin, urine testing materials, syringes,
25 and needles used by diabetics.

1 In order for the State to become a member of the
2 Streamlined Sales and Use Tax Agreement and in recognition of
3 the rapidly expanding technologies by which prewritten
4 computer software is transferred, it is the intent of the
5 General Assembly that the tax imposed under this Section be
6 imposed on the same base as the Retailers' Occupation Tax Act
7 and that the tax on prewritten computer software be applied
8 regardless of the manner in which the prewritten computer
9 software is transferred.

10 If, on the effective date of this amendatory Act of the
11 95th General Assembly, a unit of local government has imposed a
12 tax under this Section by ordinance or resolution, or if, after
13 the effective date of this amendatory Act of the 95th General
14 Assembly, a unit of local government imposes a tax under this
15 Section by ordinance or resolution, the tax imposed by that
16 ordinance or resolution includes transfers of prewritten
17 computer software and, on and after July 1, 2008, all items
18 subject to tax under the Retailers' Occupation Tax Act,
19 including but not limited to food and food ingredients for
20 human consumption, prescription drugs, and over the counter
21 drugs.

22 The tax imposed by a municipality pursuant to this Section
23 and all civil penalties that may be assessed as an incident
24 thereof shall be collected and enforced by the State Department
25 of Revenue. The certificate of registration which is issued by
26 the Department to a retailer under the Retailers' Occupation

1 Tax Act shall permit such retailer to engage in a business
2 which is taxable under any ordinance or resolution enacted
3 pursuant to this Section without registering separately with
4 the Department under such ordinance or resolution or under this
5 Section. The Department shall have full power to administer and
6 enforce this Section; to collect all taxes and penalties due
7 hereunder; to dispose of taxes and penalties so collected in
8 the manner hereinafter provided, and to determine all rights to
9 credit memoranda, arising on account of the erroneous payment
10 of tax or penalty hereunder. In the administration of, and
11 compliance with, this Section, the Department and persons who
12 are subject to this Section shall have the same rights,
13 remedies, privileges, immunities, powers and duties, and be
14 subject to the same conditions, restrictions, limitations,
15 penalties and definitions of terms, and employ the same modes
16 of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d,
17 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
18 therein other than the State rate of tax), 2c, 3 (except as to
19 the disposition of taxes and penalties collected), 3.5, 3.6,
20 3.8, 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6,
21 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'
22 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
23 Interest Act as fully as if those provisions were set forth
24 herein.

25 No municipality may impose a tax under this Section unless
26 the municipality also imposes a tax at the same rate under

1 Section 8-11-1.4 of this Code.

2 Persons subject to any tax imposed pursuant to the
3 authority granted in this Section may reimburse themselves for
4 their seller's tax liability hereunder by separately stating
5 such tax as an additional charge, which charge may be stated in
6 combination, in a single amount, with State tax which sellers
7 are required to collect under the Use Tax Act, and through June
8 30, 2008, the sellers may collect such tax pursuant to such
9 bracket schedules as the Department may prescribe.

10 Whenever the Department determines that a refund should be
11 made under this Section to a claimant instead of issuing a
12 credit memorandum, the Department shall notify the State
13 Comptroller, who shall cause the order to be drawn for the
14 amount specified, and to the person named, in such notification
15 from the Department. Such refund shall be paid by the State
16 Treasurer out of the non-home rule municipal retailers'
17 occupation tax fund.

18 The Department shall forthwith pay over to the State
19 Treasurer, ex officio, as trustee, all taxes and penalties
20 collected hereunder. On or before the 25th day of each calendar
21 month, the Department shall prepare and certify to the
22 Comptroller the disbursement of stated sums of money to named
23 municipalities, the municipalities to be those from which
24 retailers have paid taxes or penalties hereunder to the
25 Department during the second preceding calendar month. The
26 amount to be paid to each municipality shall be the amount (not

1 including credit memoranda) collected hereunder during the
2 second preceding calendar month by the Department plus an
3 amount the Department determines is necessary to offset any
4 amounts which were erroneously paid to a different taxing body,
5 and not including an amount equal to the amount of refunds made
6 during the second preceding calendar month by the Department on
7 behalf of such municipality, and not including any amount which
8 the Department determines is necessary to offset any amounts
9 which were payable to a different taxing body but were
10 erroneously paid to the municipality. Within 10 days after
11 receipt, by the Comptroller, of the disbursement certification
12 to the municipalities, provided for in this Section to be given
13 to the Comptroller by the Department, the Comptroller shall
14 cause the orders to be drawn for the respective amounts in
15 accordance with the directions contained in such
16 certification.

17 On and before June 30, 2008, for ~~For~~ the purpose of
18 determining the local governmental unit whose tax is
19 applicable, a retail sale, by a producer of coal or other
20 mineral mined in Illinois, is a sale at retail at the place
21 where the coal or other mineral mined in Illinois is extracted
22 from the earth. This paragraph does not apply to coal or other
23 mineral when it is delivered or shipped by the seller to the
24 purchaser at a point outside Illinois so that the sale is
25 exempt under the Federal Constitution as a sale in interstate
26 or foreign commerce.

1 Nothing in this Section shall be construed to authorize a
2 municipality to impose a tax upon the privilege of engaging in
3 any business which under the constitution of the United States
4 may not be made the subject of taxation by this State.

5 When certifying the amount of a monthly disbursement to a
6 municipality under this Section, the Department shall increase
7 or decrease such amount by an amount necessary to offset any
8 misallocation of previous disbursements. The offset amount
9 shall be the amount erroneously disbursed within the previous 6
10 months from the time a misallocation is discovered.

11 The Department of Revenue shall implement this amendatory
12 Act of the 91st General Assembly so as to collect the tax on
13 and after January 1, 2002.

14 As used in this Section, "municipal" and "municipality"
15 means a city, village or incorporated town, including an
16 incorporated town which has superseded a civil township.

17 This Section shall be known and may be cited as the
18 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

19 (Source: P.A. 94-679, eff. 1-1-06.)

20 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

21 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
22 Tax Act. The corporate authorities of a non-home rule
23 municipality may impose a tax upon all persons engaged, in such
24 municipality, in the business of making sales of service for
25 expenditure on public infrastructure or for property tax relief

1 or both as defined in Section 8-11-1.2 if approved by
2 referendum as provided in Section 8-11-1.1, of the selling
3 price of all tangible personal property transferred by such
4 servicemen either in the form of tangible personal property or
5 in the form of real estate as an incident to a sale of service.
6 The tax imposed may not be more than 1% and may be imposed only
7 in 1/4% increments. Through June 30, 2008, the ~~The~~ tax may not
8 be imposed on the sale of food for human consumption that is to
9 be consumed off the premises where it is sold (other than
10 alcoholic beverages, soft drinks, and food that has been
11 prepared for immediate consumption) and prescription and
12 nonprescription medicines, drugs, medical appliances, and
13 insulin, urine testing materials, syringes, and needles used by
14 diabetics.

15 In order for the State to become a member of the
16 Streamlined Sales and Use Tax Agreement, it is the intent of
17 the General Assembly that the tax imposed under this Section be
18 imposed on the same base as the Service Occupation Tax Act.

19 If, on the effective date of this amendatory Act of the
20 95th General Assembly, a unit of local government has imposed a
21 tax under this Section by ordinance or resolution, or if, after
22 the effective date of this amendatory Act of the 95th General
23 Assembly, a unit of local government imposes a tax under this
24 Section by ordinance or resolution, the tax imposed by that
25 ordinance or resolution includes, on and after July 1, 2008,
26 all items subject to tax under the Service Occupation Tax Act,

1 including food and food ingredients for human consumption,
2 prescription drugs, and over the counter drugs.

3 The tax imposed by a municipality pursuant to this Section
4 and all civil penalties that may be assessed as an incident
5 thereof shall be collected and enforced by the State Department
6 of Revenue. The certificate of registration which is issued by
7 the Department to a retailer under the Retailers' Occupation
8 Tax Act or under the Service Occupation Tax Act shall permit
9 such registrant to engage in a business which is taxable under
10 any ordinance or resolution enacted pursuant to this Section
11 without registering separately with the Department under such
12 ordinance or resolution or under this Section. The Department
13 shall have full power to administer and enforce this Section;
14 to collect all taxes and penalties due hereunder; to dispose of
15 taxes and penalties so collected in the manner hereinafter
16 provided, and to determine all rights to credit memoranda
17 arising on account of the erroneous payment of tax or penalty
18 hereunder. In the administration of, and compliance with, this
19 Section the Department and persons who are subject to this
20 Section shall have the same rights, remedies, privileges,
21 immunities, powers and duties, and be subject to the same
22 conditions, restrictions, limitations, penalties and
23 definitions of terms, and employ the same modes of procedure,
24 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
25 respect to all provisions therein other than the State rate of
26 tax), 4 (except that the reference to the State shall be to the

1 taxing municipality), 5, 7, 8 (except that the jurisdiction to
2 which the tax shall be a debt to the extent indicated in that
3 Section 8 shall be the taxing municipality), 9 (except as to
4 the disposition of taxes and penalties collected, and except
5 that the returned merchandise credit for this municipal tax may
6 not be taken against any State tax), 10, 11, 12 (except the
7 reference therein to Section 2b of the Retailers' Occupation
8 Tax Act), 13 (except that any reference to the State shall mean
9 the taxing municipality), the first paragraph of Section 15,
10 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
11 Section 3-7 of the Uniform Penalty and Interest Act, as fully
12 as if those provisions were set forth herein.

13 No municipality may impose a tax under this Section unless
14 the municipality also imposes a tax at the same rate under
15 Section 8-11-1.3 of this Code.

16 Persons subject to any tax imposed pursuant to the
17 authority granted in this Section may reimburse themselves for
18 their serviceman's tax liability hereunder by separately
19 stating such tax as an additional charge, which charge may be
20 stated in combination, in a single amount, with State tax which
21 servicemen are authorized to collect under the Service Use Tax
22 Act, and through June 30, 2008, the sellers may collect such
23 tax pursuant to such bracket schedules as the Department may
24 prescribe.

25 Whenever the Department determines that a refund should be
26 made under this Section to a claimant instead of issuing credit

1 memorandum, the Department shall notify the State Comptroller,
2 who shall cause the order to be drawn for the amount specified,
3 and to the person named, in such notification from the
4 Department. Such refund shall be paid by the State Treasurer
5 out of the municipal retailers' occupation tax fund.

6 The Department shall forthwith pay over to the State
7 Treasurer, ex officio, as trustee, all taxes and penalties
8 collected hereunder. On or before the 25th day of each calendar
9 month, the Department shall prepare and certify to the
10 Comptroller the disbursement of stated sums of money to named
11 municipalities, the municipalities to be those from which
12 suppliers and servicemen have paid taxes or penalties hereunder
13 to the Department during the second preceding calendar month.
14 The amount to be paid to each municipality shall be the amount
15 (not including credit memoranda) collected hereunder during
16 the second preceding calendar month by the Department, and not
17 including an amount equal to the amount of refunds made during
18 the second preceding calendar month by the Department on behalf
19 of such municipality. Within 10 days after receipt, by the
20 Comptroller, of the disbursement certification to the
21 municipalities and the General Revenue Fund, provided for in
22 this Section to be given to the Comptroller by the Department,
23 the Comptroller shall cause the orders to be drawn for the
24 respective amounts in accordance with the directions contained
25 in such certification.

26 The Department of Revenue shall implement this amendatory

1 Act of the 91st General Assembly so as to collect the tax on
2 and after January 1, 2002.

3 Nothing in this Section shall be construed to authorize a
4 municipality to impose a tax upon the privilege of engaging in
5 any business which under the constitution of the United States
6 may not be made the subject of taxation by this State.

7 As used in this Section, "municipal" or "municipality"
8 means or refers to a city, village or incorporated town,
9 including an incorporated town which has superseded a civil
10 township.

11 This Section shall be known and may be cited as the
12 "Non-Home Rule Municipal Service Occupation Tax Act".

13 (Source: P.A. 94-679, eff. 1-1-06.)

14 (65 ILCS 5/8-11-1.6)

15 Sec. 8-11-1.6. Non-home rule municipal retailers
16 occupation tax; municipalities between 20,000 and 25,000. The
17 corporate authorities of a non-home rule municipality with a
18 population of more than 20,000 but less than 25,000 that has,
19 prior to January 1, 1987, established a Redevelopment Project
20 Area that has been certified as a State Sales Tax Boundary and
21 has issued bonds or otherwise incurred indebtedness to pay for
22 costs in excess of \$5,000,000, which is secured in part by a
23 tax increment allocation fund, in accordance with the
24 provisions of Division 11-74.4 of this Code may, by passage of
25 an ordinance, impose a tax upon all persons engaged in the

1 business of selling tangible personal property, other than on
2 an item of tangible personal property that is titled and
3 registered by an agency of this State's Government, at retail
4 in the municipality. Through June 30, 2008, this ~~This~~ tax may
5 not be imposed on the sales of food for human consumption that
6 is to be consumed off the premises where it is sold (other than
7 alcoholic beverages, soft drinks, and food that has been
8 prepared for immediate consumption) and prescription and
9 nonprescription medicines, drugs, medical appliances and
10 insulin, urine testing materials, syringes, and needles used by
11 diabetics.

12 In order for the State to become a member of the
13 Streamlined Sales and Use Tax Agreement and in recognition of
14 the rapidly expanding technologies by which prewritten
15 computer software is transferred, it is the intent of the
16 General Assembly that the tax imposed under this Section be
17 imposed on the same base as the Retailers' Occupation Tax Act
18 and that the tax on prewritten computer software be applied
19 regardless of the manner in which the prewritten computer
20 software is transferred.

21 If, on the effective date of this amendatory Act of the
22 95th General Assembly, a unit of local government has imposed a
23 tax under this Section by ordinance or resolution, or if, after
24 the effective date of this amendatory Act of the 95th General
25 Assembly, a unit of local government imposes a tax under this
26 Section by ordinance or resolution, the tax imposed by that

1 ordinance or resolution includes transfers of prewritten
2 computer software and, on and after July 1, 2008, all items
3 subject to tax under the Retailers' Occupation Tax Act,
4 including but not limited to food and food ingredients for
5 human consumption, prescription drugs, and over the counter
6 drugs.

7 If imposed, the tax shall only be imposed in .25%
8 increments of the gross receipts from such sales made in the
9 course of business. Any tax imposed by a municipality under
10 this Sec. and all civil penalties that may be assessed as an
11 incident thereof shall be collected and enforced by the State
12 Department of Revenue. An ordinance imposing a tax hereunder or
13 effecting a change in the rate thereof shall be adopted and a
14 certified copy thereof filed with the Department on or before
15 the first day of October, whereupon the Department shall
16 proceed to administer and enforce this Section as of the first
17 day of January next following such adoption and filing.

18 Beginning on July 1, 2008, an ordinance or resolution
19 imposing or discontinuing the tax hereunder or effecting a
20 change in the rate thereof shall either (i) be adopted and a
21 certified copy thereof filed with the Department on or before
22 the first day of January, whereupon the Department shall
23 proceed to administer and enforce this Section as of the first
24 day of July next following the adoption and filing; or (ii) be
25 adopted and a certified copy thereof filed with the Department
26 on or before the first day of July, whereupon the Department

1 shall proceed to administer and enforce this Section as of the
2 first day of January next following the adoption and filing.
3 Beginning on July 1, 2008, notices of local jurisdiction
4 boundary changes shall either (i) be filed with the Department
5 on or before the first day of January, whereupon the Department
6 shall proceed to administer and enforce this Section in regards
7 to such boundary changes as of the first day of July next
8 following such filing; or (ii) be filed with the Department on
9 or before the first day of July, whereupon the Department shall
10 proceed to administer and enforce this Section in regards to
11 such boundary changes as of the first day of January next
12 following the adoption and filing.

13 The certificate of registration that is issued by the
14 Department to a retailer under the Retailers' Occupation Tax
15 Act shall permit the retailer to engage in a business that is
16 taxable under any ordinance or resolution enacted under this
17 Section without registering separately with the Department
18 under the ordinance or resolution or under this Section. The
19 Department shall have full power to administer and enforce this
20 Section, to collect all taxes and penalties due hereunder, to
21 dispose of taxes and penalties so collected in the manner
22 hereinafter provided, and to determine all rights to credit
23 memoranda, arising on account of the erroneous payment of tax
24 or penalty hereunder. In the administration of, and compliance
25 with this Section, the Department and persons who are subject
26 to this Section shall have the same rights, remedies,

1 privileges, immunities, powers, and duties, and be subject to
2 the same conditions, restrictions, limitations, penalties, and
3 definitions of terms, and employ the same modes of procedure,
4 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,
5 2 through 2-65 (in respect to all provisions therein other than
6 the State rate of tax), 2c, 3 (except as to the disposition of
7 taxes and penalties collected), 3.5, 3.6, 3.8, 4, 5, 5a, 5b,
8 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9,
9 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
10 Section 3-7 of the Uniform Penalty and Interest Act as fully as
11 if those provisions were set forth herein.

12 A tax may not be imposed by a municipality under this
13 Section unless the municipality also imposes a tax at the same
14 rate under Section 8-11-1.7 of this Act.

15 Persons subject to any tax imposed under the authority
16 granted in this Section, may reimburse themselves for their
17 seller's tax liability hereunder by separately stating the tax
18 as an additional charge, which charge may be stated in
19 combination, in a single amount, with State tax which sellers
20 are required to collect under the Use Tax Act, and through June
21 30, 2008, the sellers may collect such tax pursuant to such
22 bracket schedules as the Department may prescribe.

23 Whenever the Department determines that a refund should be
24 made under this Section to a claimant, instead of issuing a
25 credit memorandum, the Department shall notify the State
26 Comptroller, who shall cause the order to be drawn for the

1 amount specified, and to the person named in the notification
2 from the Department. The refund shall be paid by the State
3 Treasurer out of the Non-Home Rule Municipal Retailers'
4 Occupation Tax Fund, which is hereby created.

5 The Department shall forthwith pay over to the State
6 Treasurer, ex officio, as trustee, all taxes and penalties
7 collected hereunder. On or before the 25th day of each calendar
8 month, the Department shall prepare and certify to the
9 Comptroller the disbursement of stated sums of money to named
10 municipalities, the municipalities to be those from which
11 retailers have paid taxes or penalties hereunder to the
12 Department during the second preceding calendar month. The
13 amount to be paid to each municipality shall be the amount (not
14 including credit memoranda) collected hereunder during the
15 second preceding calendar month by the Department plus an
16 amount the Department determines is necessary to offset any
17 amounts that were erroneously paid to a different taxing body,
18 and not including an amount equal to the amount of refunds made
19 during the second preceding calendar month by the Department on
20 behalf of the municipality, and not including any amount that
21 the Department determines is necessary to offset any amounts
22 that were payable to a different taxing body but were
23 erroneously paid to the municipality. Within 10 days after
24 receipt by the Comptroller of the disbursement certification to
25 the municipalities provided for in this Section to be given to
26 the Comptroller by the Department, the Comptroller shall cause

1 the orders to be drawn for the respective amounts in accordance
2 with the directions contained in the certification.

3 On or before December 31, 2008, for ~~For~~ the purpose of
4 determining the local governmental unit whose tax is
5 applicable, a retail sale by a producer of coal or other
6 mineral mined in Illinois is a sale at retail at the place
7 where the coal or other mineral mined in Illinois is extracted
8 from the earth. This paragraph does not apply to coal or other
9 mineral when it is delivered or shipped by the seller to the
10 purchaser at a point outside Illinois so that the sale is
11 exempt under the federal Constitution as a sale in interstate
12 or foreign commerce.

13 Nothing in this Section shall be construed to authorize a
14 municipality to impose a tax upon the privilege of engaging in
15 any business which under the constitution of the United States
16 may not be made the subject of taxation by this State.

17 When certifying the amount of a monthly disbursement to a
18 municipality under this Section, the Department shall increase
19 or decrease the amount by an amount necessary to offset any
20 misallocation of previous disbursements. The offset amount
21 shall be the amount erroneously disbursed within the previous 6
22 months from the time a misallocation is discovered.

23 As used in this Section, "municipal" and "municipality"
24 means a city, village, or incorporated town, including an
25 incorporated town that has superseded a civil township.

26 (Source: P.A. 88-334; 89-399, eff. 8-20-95.)

1 (65 ILCS 5/8-11-1.7)

2 Sec. 8-11-1.7. Non-home rule municipal service occupation
3 tax; municipalities between 20,000 and 25,000. The corporate
4 authorities of a non-home rule municipality with a population
5 of more than 20,000 but less than 25,000 as determined by the
6 last preceding decennial census that has, prior to January 1,
7 1987, established a Redevelopment Project Area that has been
8 certified as a State Sales Tax Boundary and has issued bonds or
9 otherwise incurred indebtedness to pay for costs in excess of
10 \$5,000,000, which is secured in part by a tax increment
11 allocation fund, in accordance with the provisions of Division
12 11-74.7 of this Code may, by passage of an ordinance, impose a
13 tax upon all persons engaged in the municipality in the
14 business of making sales of service. If imposed, the tax shall
15 only be imposed in .25% increments of the selling price of all
16 tangible personal property transferred by such servicemen
17 either in the form of tangible personal property or in the form
18 of real estate as an incident to a sale of service. Through
19 June 30, 2008, this ~~This~~ tax may not be imposed on the sales of
20 food for human consumption that is to be consumed off the
21 premises where it is sold (other than alcoholic beverages, soft
22 drinks, and food that has been prepared for immediate
23 consumption) and prescription and nonprescription medicines,
24 drugs, medical appliances and insulin, urine testing
25 materials, syringes, and needles used by diabetics.

1 In order for the State to become a member of the
2 Streamlined Sales and Use Tax Agreement, it is the intent of
3 the General Assembly that the tax imposed under this Section be
4 imposed on the same base as the Service Occupation Tax Act.

5 If, on the effective date of this amendatory Act of the
6 95th General Assembly, a unit of local government has imposed a
7 tax under this Section by ordinance or resolution, or if, after
8 the effective date of this amendatory Act of the 95th General
9 Assembly, a unit of local government imposes a tax under this
10 Section by ordinance or resolution, the tax imposed by that
11 ordinance or resolution includes, on and after July 1, 2008,
12 all items subject to tax under the Service Occupation Tax Act,
13 including food and food ingredients for human consumption,
14 prescription drugs, and over the counter drugs.

15 The tax imposed by a municipality under this Sec. and all
16 civil penalties that may be assessed as an incident thereof
17 shall be collected and enforced by the State Department of
18 Revenue. An ordinance imposing a tax hereunder or effecting a
19 change in the rate thereof shall be adopted and a certified
20 copy thereof filed with the Department on or before the first
21 day of October, whereupon the Department shall proceed to
22 administer and enforce this Section as of the first day of
23 January next following such adoption and filing.

24 Beginning on July 1, 2008, an ordinance or resolution
25 imposing or discontinuing the tax hereunder or effecting a
26 change in the rate thereof shall either (i) be adopted and a

1 certified copy thereof filed with the Department on or before
2 the first day of January, whereupon the Department shall
3 proceed to administer and enforce this Section as of the first
4 day of July next following the adoption and filing; or (ii) be
5 adopted and a certified copy thereof filed with the Department
6 on or before the first day of July, whereupon the Department
7 shall proceed to administer and enforce this Section as of the
8 first day of January next following the adoption and filing.
9 Beginning on July 1, 2008, notices of local jurisdiction
10 boundary changes shall either (i) be filed with the Department
11 on or before the first day of January, whereupon the Department
12 shall proceed to administer and enforce this Section in regards
13 to such boundary changes as of the first day of July next
14 following such filing; or (ii) be filed with the Department on
15 or before the first day of July, whereupon the Department shall
16 proceed to administer and enforce this Section in regards to
17 such boundary changes as of the first day of January next
18 following the adoption and filing.

19 The certificate of registration that is issued by the
20 Department to a retailer under the Retailers' Occupation Tax
21 Act or under the Service Occupation Tax Act shall permit the
22 registrant to engage in a business that is taxable under any
23 ordinance or resolution enacted under this Section without
24 registering separately with the Department under the ordinance
25 or resolution or under this Section. The Department shall have
26 full power to administer and enforce this Section, to collect

1 all taxes and penalties due hereunder, to dispose of taxes and
2 penalties so collected in a manner hereinafter provided, and to
3 determine all rights to credit memoranda arising on account of
4 the erroneous payment of tax or penalty hereunder. In the
5 administration of and compliance with this Section, the
6 Department and persons who are subject to this Section shall
7 have the same rights, remedies, privileges, immunities,
8 powers, and duties, and be subject to the same conditions,
9 restrictions, limitations, penalties and definitions of terms,
10 and employ the same modes of procedure, as are prescribed in
11 Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all
12 provisions therein other than the State rate of tax), 4 (except
13 that the reference to the State shall be to the taxing
14 municipality), 5, 7, 8 (except that the jurisdiction to which
15 the tax shall be a debt to the extent indicated in that Section
16 8 shall be the taxing municipality), 9 (except as to the
17 disposition of taxes and penalties collected, and except that
18 the returned merchandise credit for this municipal tax may not
19 be taken against any State tax), 10, 11, 12, (except the
20 reference therein to Section 2b of the Retailers' Occupation
21 Tax Act), 13 (except that any reference to the State shall mean
22 the taxing municipality), the first paragraph of Sections 15,
23 16, 17, 18, 19, and 20 of the Service Occupation Tax Act and
24 Section 3-7 of the Uniform Penalty and Interest Act, as fully
25 as if those provisions were set forth herein.

26 A tax may not be imposed by a municipality under this

1 Section unless the municipality also imposes a tax at the same
2 rate under Section 8-11-1.6 of this Act.

3 Person subject to any tax imposed under the authority
4 granted in this Section may reimburse themselves for their
5 servicemen's tax liability hereunder by separately stating the
6 tax as an additional charge, which charge may be stated in
7 combination, in a single amount, with State tax that servicemen
8 are authorized to collect under the Service Use Tax Act, and,
9 through June 30, 2008, the sellers may collect such tax under
10 such bracket schedules as the Department may prescribe.

11 Whenever the Department determines that a refund should be
12 made under this Section to a claimant instead of issuing credit
13 memorandum, the Department shall notify the State Comptroller,
14 who shall cause the order to be drawn for the amount specified,
15 and to the person named, in such notification from the
16 Department. The refund shall be paid by the State Treasurer out
17 of the Non-Home Rule Municipal Retailers' Occupation Tax Fund.

18 The Department shall forthwith pay over to the State
19 Treasurer, ex officio, as trustee, all taxes and penalties
20 collected hereunder. On or before the 25th day of each calendar
21 month, the Department shall prepare and certify to the
22 Comptroller the disbursement of stated sums of money to named
23 municipalities, the municipalities to be those from which
24 suppliers and servicemen have paid taxes or penalties hereunder
25 to the Department during the second preceding calendar month.
26 The amount to be paid to each municipality shall be the amount

1 (not including credit memoranda) collected hereunder during
2 the second preceding calendar month by the Department, and not
3 including an amount equal to the amount of refunds made during
4 the second preceding calendar month by the Department on behalf
5 of such municipality. Within 10 days after receipt by the
6 Comptroller of the disbursement certification to the
7 municipalities and the General Revenue Fund, provided for in
8 this Section to be given to the Comptroller by the Department,
9 the Comptroller shall cause the orders to be drawn for the
10 respective amounts in accordance with the directions contained
11 in the certification.

12 When certifying the amount of a monthly disbursement to a
13 municipality under this Section, the Department shall increase
14 or decrease the amount by an amount necessary to offset any
15 misallocation of previous disbursements. The offset amount
16 shall be the amount erroneously disbursed within the previous 6
17 months from the time a misallocation is discovered.

18 Nothing in this Section shall be construed to authorize a
19 municipality to impose a tax upon the privilege of engaging in
20 any business which under the constitution of the United States
21 may not be made the subject of taxation by this State.

22 (Source: P.A. 88-334; 89-399, eff. 8-20-95.)

23 (65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

24 Sec. 8-11-5. Home Rule Municipal Service Occupation Tax
25 Act. The corporate authorities of a home rule municipality may

1 impose a tax upon all persons engaged, in such municipality, in
2 the business of making sales of service at the same rate of tax
3 imposed pursuant to Section 8-11-1, of the selling price of all
4 tangible personal property transferred by such servicemen
5 either in the form of tangible personal property or in the form
6 of real estate as an incident to a sale of service. If imposed,
7 such tax shall only be imposed in 1/4% increments. On and after
8 September 1, 1991 and through June 30, 2008, this additional
9 tax may not be imposed on the sales of food for human
10 consumption which is to be consumed off the premises where it
11 is sold (other than alcoholic beverages, soft drinks and food
12 which has been prepared for immediate consumption) and
13 prescription and nonprescription medicines, drugs, medical
14 appliances and insulin, urine testing materials, syringes and
15 needles used by diabetics.

16 In order for the State to become a member of the
17 Streamlined Sales and Use Tax Agreement, it is the intent of
18 the General Assembly that the tax imposed under this Section be
19 imposed on the same base as the Service Occupation Tax Act.

20 If, on the effective date of this amendatory Act of the
21 95th General Assembly, a unit of local government has imposed a
22 tax under this Section by ordinance or resolution, or if, after
23 the effective date of this amendatory Act of the 95th General
24 Assembly, a unit of local government imposes a tax under this
25 Section by ordinance or resolution, the tax imposed by that
26 ordinance or resolution includes, on and after July 1, 2008,

1 all items subject to tax under the Service Occupation Tax Act,
2 including food and food ingredients for human consumption,
3 prescription drugs, and over the counter drugs.

4 The tax imposed by a home rule municipality pursuant to
5 this Section and all civil penalties that may be assessed as an
6 incident thereof shall be collected and enforced by the State
7 Department of Revenue. The certificate of registration which is
8 issued by the Department to a retailer under the Retailers'
9 Occupation Tax Act or under the Service Occupation Tax Act
10 shall permit such registrant to engage in a business which is
11 taxable under any ordinance or resolution enacted pursuant to
12 this Section without registering separately with the
13 Department under such ordinance or resolution or under this
14 Section. The Department shall have full power to administer and
15 enforce this Section; to collect all taxes and penalties due
16 hereunder; to dispose of taxes and penalties so collected in
17 the manner hereinafter provided, and to determine all rights to
18 credit memoranda arising on account of the erroneous payment of
19 tax or penalty hereunder. In the administration of, and
20 compliance with, this Section the Department and persons who
21 are subject to this Section shall have the same rights,
22 remedies, privileges, immunities, powers and duties, and be
23 subject to the same conditions, restrictions, limitations,
24 penalties and definitions of terms, and employ the same modes
25 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3
26 through 3-50 (in respect to all provisions therein other than

1 the State rate of tax), 4 (except that the reference to the
2 State shall be to the taxing municipality), 5, 7, 8 (except
3 that the jurisdiction to which the tax shall be a debt to the
4 extent indicated in that Section 8 shall be the taxing
5 municipality), 9 (except as to the disposition of taxes and
6 penalties collected, and except that the returned merchandise
7 credit for this municipal tax may not be taken against any
8 State tax), 10, 11, 12 (except the reference therein to Section
9 2b of the Retailers' Occupation Tax Act), 13 (except that any
10 reference to the State shall mean the taxing municipality), the
11 first paragraph of Section 15, 16, 17 (except that credit
12 memoranda issued hereunder may not be used to discharge any
13 State tax liability), 18, 19 and 20 of the Service Occupation
14 Tax Act and Section 3-7 of the Uniform Penalty and Interest
15 Act, as fully as if those provisions were set forth herein.

16 No tax may be imposed by a home rule municipality pursuant
17 to this Section unless such municipality also imposes a tax at
18 the same rate pursuant to Section 8-11-1 of this Act.

19 Persons subject to any tax imposed pursuant to the
20 authority granted in this Section may reimburse themselves for
21 their serviceman's tax liability hereunder by separately
22 stating such tax as an additional charge, which charge may be
23 stated in combination, in a single amount, with State tax which
24 servicemen are authorized to collect under the Service Use Tax
25 Act, and, through June 30, 2008, the sellers may collect such
26 tax pursuant to such bracket schedules as the Department may

1 prescribe.

2 Whenever the Department determines that a refund should be
3 made under this Section to a claimant instead of issuing credit
4 memorandum, the Department shall notify the State Comptroller,
5 who shall cause the order to be drawn for the amount specified,
6 and to the person named, in such notification from the
7 Department. Such refund shall be paid by the State Treasurer
8 out of the home rule municipal retailers' occupation tax fund.

9 The Department shall forthwith pay over to the State
10 Treasurer, ex-officio, as trustee, all taxes and penalties
11 collected hereunder. On or before the 25th day of each calendar
12 month, the Department shall prepare and certify to the
13 Comptroller the disbursement of stated sums of money to named
14 municipalities, the municipalities to be those from which
15 suppliers and servicemen have paid taxes or penalties hereunder
16 to the Department during the second preceding calendar month.
17 The amount to be paid to each municipality shall be the amount
18 (not including credit memoranda) collected hereunder during
19 the second preceding calendar month by the Department, and not
20 including an amount equal to the amount of refunds made during
21 the second preceding calendar month by the Department on behalf
22 of such municipality. Within 10 days after receipt, by the
23 Comptroller, of the disbursement certification to the
24 municipalities, provided for in this Section to be given to the
25 Comptroller by the Department, the Comptroller shall cause the
26 orders to be drawn for the respective amounts in accordance

1 with the directions contained in such certification.

2 In addition to the disbursement required by the preceding
3 paragraph and in order to mitigate delays caused by
4 distribution procedures, an allocation shall, if requested, be
5 made within 10 days after January 14, 1991, and in November of
6 1991 and each year thereafter, to each municipality that
7 received more than \$500,000 during the preceding fiscal year,
8 (July 1 through June 30) whether collected by the municipality
9 or disbursed by the Department as required by this Section.
10 Within 10 days after January 14, 1991, participating
11 municipalities shall notify the Department in writing of their
12 intent to participate. In addition, for the initial
13 distribution, participating municipalities shall certify to
14 the Department the amounts collected by the municipality for
15 each month under its home rule occupation and service
16 occupation tax during the period July 1, 1989 through June 30,
17 1990. The allocation within 10 days after January 14, 1991,
18 shall be in an amount equal to the monthly average of these
19 amounts, excluding the 2 months of highest receipts. Monthly
20 average for the period of July 1, 1990 through June 30, 1991
21 will be determined as follows: the amounts collected by the
22 municipality under its home rule occupation and service
23 occupation tax during the period of July 1, 1990 through
24 September 30, 1990, plus amounts collected by the Department
25 and paid to such municipality through June 30, 1991, excluding
26 the 2 months of highest receipts. The monthly average for each

1 subsequent period of July 1 through June 30 shall be an amount
2 equal to the monthly distribution made to each such
3 municipality under the preceding paragraph during this period,
4 excluding the 2 months of highest receipts. The distribution
5 made in November 1991 and each year thereafter under this
6 paragraph and the preceding paragraph shall be reduced by the
7 amount allocated and disbursed under this paragraph in the
8 preceding period of July 1 through June 30. The Department
9 shall prepare and certify to the Comptroller for disbursement
10 the allocations made in accordance with this paragraph.

11 Nothing in this Section shall be construed to authorize a
12 municipality to impose a tax upon the privilege of engaging in
13 any business which under the constitution of the United States
14 may not be made the subject of taxation by this State.

15 An ordinance or resolution imposing or discontinuing a tax
16 hereunder or effecting a change in the rate thereof shall be
17 adopted and a certified copy thereof filed with the Department
18 on or before the first day of June, whereupon the Department
19 shall proceed to administer and enforce this Section as of the
20 first day of September next following such adoption and filing.
21 Beginning January 1, 1992, an ordinance or resolution imposing
22 or discontinuing the tax hereunder or effecting a change in the
23 rate thereof shall be adopted and a certified copy thereof
24 filed with the Department on or before the first day of July,
25 whereupon the Department shall proceed to administer and
26 enforce this Section as of the first day of October next

1 following such adoption and filing. Beginning January 1, 1993,
2 an ordinance or resolution imposing or discontinuing the tax
3 hereunder or effecting a change in the rate thereof shall be
4 adopted and a certified copy thereof filed with the Department
5 on or before the first day of October, whereupon the Department
6 shall proceed to administer and enforce this Section as of the
7 first day of January next following such adoption and filing.
8 However, a municipality located in a county with a population
9 in excess of 3,000,000 that elected to become a home rule unit
10 at the general primary election in 1994 may adopt an ordinance
11 or resolution imposing the tax under this Section and file a
12 certified copy of the ordinance or resolution with the
13 Department on or before July 1, 1994. The Department shall then
14 proceed to administer and enforce this Section as of October 1,
15 1994. Beginning April 1, 1998, an ordinance or resolution
16 imposing or discontinuing the tax hereunder or effecting a
17 change in the rate thereof shall either (i) be adopted and a
18 certified copy thereof filed with the Department on or before
19 the first day of April, whereupon the Department shall proceed
20 to administer and enforce this Section as of the first day of
21 July next following the adoption and filing; or (ii) be adopted
22 and a certified copy thereof filed with the Department on or
23 before the first day of October, whereupon the Department shall
24 proceed to administer and enforce this Section as of the first
25 day of January next following the adoption and filing.
26 Beginning on July 1, 2008, an ordinance or resolution imposing

1 or discontinuing the tax hereunder or effecting a change in the
2 rate thereof shall either (i) be adopted and a certified copy
3 thereof filed with the Department on or before the first day of
4 January, whereupon the Department shall proceed to administer
5 and enforce this Section as of the first day of July next
6 following the adoption and filing; or (ii) be adopted and a
7 certified copy thereof filed with the Department on or before
8 the first day of July, whereupon the Department shall proceed
9 to administer and enforce this Section as of the first day of
10 January next following the adoption and filing. Beginning on
11 July 1, 2008, notices of local jurisdiction boundary changes
12 shall either (i) be filed with the Department on or before the
13 first day of January, whereupon the Department shall proceed to
14 administer and enforce this Section in regards to such boundary
15 changes as of the first day of July next following such filing;
16 or (ii) be filed with the Department on or before the first day
17 of July, whereupon the Department shall proceed to administer
18 and enforce this Section in regards to such boundary changes as
19 of the first day of January next following the adoption and
20 filing.

21 Any unobligated balance remaining in the Municipal
22 Retailers' Occupation Tax Fund on December 31, 1989, which fund
23 was abolished by Public Act 85-1135, and all receipts of
24 municipal tax as a result of audits of liability periods prior
25 to January 1, 1990, shall be paid into the Local Government Tax
26 Fund, for distribution as provided by this Section prior to the

1 enactment of Public Act 85-1135. All receipts of municipal tax
2 as a result of an assessment not arising from an audit, for
3 liability periods prior to January 1, 1990, shall be paid into
4 the Local Government Tax Fund for distribution before July 1,
5 1990, as provided by this Section prior to the enactment of
6 Public Act 85-1135, and on and after July 1, 1990, all such
7 receipts shall be distributed as provided in Section 6z-18 of
8 the State Finance Act.

9 As used in this Section, "municipal" and "municipality"
10 means a city, village or incorporated town, including an
11 incorporated town which has superseded a civil township.

12 This Section shall be known and may be cited as the Home
13 Rule Municipal Service Occupation Tax Act.

14 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

15 (65 ILCS 5/8-11-6) (from Ch. 24, par. 8-11-6)

16 Sec. 8-11-6. Home Rule Municipal Use Tax Act.

17 (a) The corporate authorities of a home rule municipality
18 may impose a tax upon the privilege of using, in such
19 municipality, any item of tangible personal property which is
20 purchased at retail from a retailer, and which is titled or
21 registered at a location within the corporate limits of such
22 home rule municipality with an agency of this State's
23 government, at a rate which is an increment of 1/4% and based
24 on the selling price of such tangible personal property, as
25 "selling price" is defined in the Use Tax Act. In home rule

1 municipalities with less than 2,000,000 inhabitants, the tax
2 shall be collected by the municipality imposing the tax from
3 persons whose Illinois address for titling or registration
4 purposes is given as being in such municipality.

5 (b) Through June 30, 2008, in ~~in~~ home rule municipalities
6 with 2,000,000 or more inhabitants, the corporate authorities
7 of the municipality may additionally impose a tax beginning
8 July 1, 1991 upon the privilege of using in the municipality,
9 any item of tangible personal property, other than tangible
10 personal property titled or registered with an agency of the
11 State's government, that is purchased at retail from a retailer
12 located outside the corporate limits of the municipality, at a
13 rate that is an increment of 1/4% not to exceed 1% and based on
14 the selling price of the tangible personal property, as
15 "selling price" is defined in the Use Tax Act. Beginning July
16 1, 2008, in home rule municipalities with 2,000,000 or more
17 inhabitants, the corporate authorities of the municipality may
18 additionally impose a tax upon the privilege of using in the
19 municipality any item of tangible personal property, other than
20 tangible personal property titled or registered with an agency
21 of the State's government, at the same rate as the tax imposed
22 by that municipality under Section 8-11-1. A tax imposed under
23 this subsection (a) on or after July 1, 2008 shall be imposed
24 on the selling price of that tangible personal property. The
25 tax imposed under this subsection (a) does not apply to a
26 purchase from a retailer who incurred retailers' occupation tax

1 imposed under Section 8-11-1 for that same municipality and for
2 which the purchaser paid the retailer a reimbursement for that
3 tax. The term "selling price" for purposes of this subsection
4 (a) has the same meaning as that term is defined in the Use Tax
5 Act. Prior to July 1, 2008, such ~~Such~~ tax shall be collected
6 from the purchaser either by the municipality imposing such tax
7 or by the Department of Revenue pursuant to an agreement
8 between the Department and the municipality. Beginning July 1,
9 2008, the tax shall be collected by the Illinois Department of
10 Revenue.

11 If, on the effective date of this amendatory Act of the
12 95th General Assembly, a home rule municipality with 2,000,000
13 or more inhabitants has imposed a tax under this subsection
14 (b), the tax imposed under this subsection includes the tax
15 imposed under subsection (b) of Section 3 of the Use Tax Act on
16 the privilege of using in the municipality prewritten computer
17 software that is transferred from a transferor located outside
18 the corporate limits of the municipality, and on and after July
19 1, 2008, also includes a tax imposed on the sales of food and
20 food ingredients for human consumption (other than prepared
21 food), prescription drugs, and over-the-counter drugs, at the
22 same rate as the tax imposed under this subsection (b).

23 To prevent multiple home rule taxation, the use in a home
24 rule municipality of tangible personal property or prewritten
25 computer software that is acquired outside the municipality and
26 caused to be brought into the municipality by a person who has

1 already paid a home rule municipal tax to ~~in~~ another
2 municipality in respect to the sale, purchase, transfer, or use
3 of that property or prewritten computer software, shall be
4 exempt to the extent of the amount of the tax properly due and
5 paid in the other home rule municipality.

6 (c) If a municipality having 2,000,000 or more inhabitants
7 imposes the tax authorized by subsection (a), then the tax
8 shall be collected by the Illinois Department of Revenue when
9 the property is purchased at retail from a retailer in the
10 county in which the home rule municipality imposing the tax is
11 located, and in all contiguous counties. The tax shall be
12 remitted to the State, or an exemption determination must be
13 obtained from the Department before the title or certificate of
14 registration for the property may be issued. The tax or proof
15 of exemption may be transmitted to the Department by way of the
16 State agency with which, or State officer with whom, the
17 tangible personal property must be titled or registered if the
18 Department and that agency or State officer determine that this
19 procedure will expedite the processing of applications for
20 title or registration.

21 The Department shall have full power to administer and
22 enforce this Section to collect all taxes, penalties and
23 interest due hereunder, to dispose of taxes, penalties and
24 interest so collected in the manner hereinafter provided, and
25 determine all rights to credit memoranda or refunds arising on
26 account of the erroneous payment of tax, penalty or interest

1 hereunder. In the administration of and compliance with this
2 Section the Department and persons who are subject to this
3 Section shall have the same rights, remedies, privileges,
4 immunities, powers and duties, and be subject to the same
5 conditions, restrictions, limitations, penalties and
6 definitions of terms, and employ the same modes of procedure as
7 are prescribed in Sections 2 (except the definition of
8 "retailer maintaining a place of business in this State" and
9 "transferor maintaining a place of business in this State"), 3
10 (except provisions pertaining to the State rate of tax, and
11 except provisions concerning collection or refunding of the tax
12 by retailers or transferors), 4, 11, 12, 12a, 14, 15, 19, 20,
13 21 and 22 of the Use Tax Act, which are not inconsistent with
14 this Section, as fully as if provisions contained in those
15 Sections of the Use Tax Act were set forth herein.

16 Whenever the Department determines that a refund shall be
17 made under this Section to a claimant instead of issuing a
18 credit memorandum, the Department shall notify the State
19 Comptroller, who shall cause the order to be drawn for the
20 amount specified, and to the person named, in such notification
21 from the Department. Such refund shall be paid by the State
22 Treasurer out of the home rule municipal retailers' occupation
23 tax fund.

24 The Department shall forthwith pay over to the State
25 Treasurer, ex officio, as trustee, all taxes, penalties and
26 interest collected hereunder. On or before the 25th day of each

1 calendar month, the Department shall prepare and certify to the
2 State Comptroller the disbursement of stated sums of money to
3 named municipalities, the municipality in each instance to be
4 that municipality from which the Department during the second
5 preceding calendar month, collected municipal use tax from any
6 person whose Illinois address for titling or registration
7 purposes is given as being in such municipality. The amount to
8 be paid to each municipality shall be the amount (not including
9 credit memoranda) collected hereunder during the second
10 preceding calendar month by the Department, and not including
11 an amount equal to the amount of refunds made during the second
12 preceding calendar month by the Department on behalf of such
13 municipality, less the amount expended during the second
14 preceding month by the Department to be paid from the
15 appropriation to the Department from the Home Rule Municipal
16 Retailers' Occupation Tax Trust Fund. The appropriation to
17 cover the costs incurred by the Department in administering and
18 enforcing this Section shall not exceed 2% of the amount
19 estimated to be deposited into the Home Rule Municipal
20 Retailers' Occupation Tax Trust Fund during the fiscal year for
21 which the appropriation is made. Within 10 days after receipt
22 by the State Comptroller of the disbursement certification to
23 the municipalities provided for in this Section to be given to
24 the State Comptroller by the Department, the State Comptroller
25 shall cause the orders to be drawn for the respective amounts
26 in accordance with the directions contained in that

1 certification.

2 Any ordinance imposing or discontinuing any tax to be
3 collected and enforced by the Department under this Section
4 shall be adopted and a certified copy thereof filed with the
5 Department on or before October 1, whereupon the Department of
6 Revenue shall proceed to administer and enforce this Section on
7 behalf of the municipalities as of January 1 next following
8 such adoption and filing. Beginning April 1, 1998, any
9 ordinance imposing or discontinuing any tax to be collected and
10 enforced by the Department under this Section shall either (i)
11 be adopted and a certified copy thereof filed with the
12 Department on or before April 1, whereupon the Department of
13 Revenue shall proceed to administer and enforce this Section on
14 behalf of the municipalities as of July 1 next following the
15 adoption and filing; or (ii) be adopted and a certified copy
16 thereof filed with the Department on or before October 1,
17 whereupon the Department of Revenue shall proceed to administer
18 and enforce this Section on behalf of the municipalities as of
19 January 1 next following the adoption and filing. Beginning on
20 July 1, 2008, an ordinance or resolution imposing or
21 discontinuing the tax hereunder or effecting a change in the
22 rate thereof shall either (i) be adopted and a certified copy
23 thereof filed with the Department on or before the first day of
24 January, whereupon the Department shall proceed to administer
25 and enforce this Section as of the first day of July next
26 following the adoption and filing; or (ii) be adopted and a

1 certified copy thereof filed with the Department on or before
2 the first day of July, whereupon the Department shall proceed
3 to administer and enforce this Section as of the first day of
4 January next following the adoption and filing. Beginning on
5 July 1, 2008, notices of local jurisdiction boundary changes
6 shall either (i) be filed with the Department on or before the
7 first day of January, whereupon the Department shall proceed to
8 administer and enforce this Section in regards to such boundary
9 changes as of the first day of July next following such filing;
10 or (ii) be filed with the Department on or before the first day
11 of July, whereupon the Department shall proceed to administer
12 and enforce this Section in regards to such boundary changes as
13 of the first day of January next following the adoption and
14 filing.

15 Through June 30, 2008, nothing ~~Nothing~~ in this subsection
16 (c) shall prevent a home rule municipality from collecting the
17 tax pursuant to subsection (a) in any situation where such tax
18 is not collected by the Department of Revenue under this
19 subsection (c).

20 (d) Any unobligated balance remaining in the Municipal
21 Retailers' Occupation Tax Fund on December 31, 1989, which fund
22 was abolished by Public Act 85-1135, and all receipts of
23 municipal tax as a result of audits of liability periods prior
24 to January 1, 1990, shall be paid into the Local Government Tax
25 Fund, for distribution as provided by this Section prior to the
26 enactment of Public Act 85-1135. All receipts of municipal tax

1 as a result of an assessment not arising from an audit, for
2 liability periods prior to January 1, 1990, shall be paid into
3 the Local Government Tax Fund for distribution before July 1,
4 1990, as provided by this Section prior to the enactment of
5 Public Act 85-1135, and on and after July 1, 1990, all such
6 receipts shall be distributed as provided in Section 6z-18 of
7 the State Finance Act.

8 (e) As used in this Section, "Municipal" and "Municipality"
9 means a city, village or incorporated town, including an
10 incorporated town which has superseded a civil township.

11 (f) This Section shall be known and may be cited as the
12 Home Rule Municipal Use Tax Act.

13 (Source: P.A. 91-51, eff. 6-30-99; 92-221, eff. 8-2-01; 92-844,
14 eff. 8-23-02; 92-846, eff. 8-23-02.)

15 (65 ILCS 5/8-11-6a) (from Ch. 24, par. 8-11-6a)

16 Sec. 8-11-6a. Home rule municipalities; preemption of
17 certain taxes. Except as provided in Sections 8-11-1, 8-11-5,
18 8-11-6, 8-11-6b, and 11-74.3-6 on and after September 1, 1990,
19 no home rule municipality has the authority to impose, pursuant
20 to its home rule authority, a retailer's occupation tax,
21 service occupation tax, use tax, sales tax or other tax on the
22 use, sale or purchase of tangible personal property based on
23 the gross receipts from such sales or the selling or purchase
24 price of said tangible personal property. Notwithstanding the
25 foregoing, this Section does not preempt any home rule imposed

1 tax such as the following: (1) through June 30, 2008, a tax on
2 alcoholic beverages, whether based on gross receipts, volume
3 sold or any other measurement and beginning on July 1, 2008, a
4 tax on alcoholic beverages, whether based on volume sold or any
5 other measurement other than gross receipts; (2) a tax based on
6 the number of units of cigarettes or tobacco products
7 (provided, however, that a home rule municipality that has not
8 imposed a tax based on the number of units of cigarettes or
9 tobacco products before July 1, 1993, shall not impose such a
10 tax after that date); (3) a tax, however measured, based on the
11 use of a hotel or motel room or similar facility; (4) a tax,
12 however measured, on the sale or transfer of real property; (5)
13 a tax, however measured, on lease receipts; (6) a tax on food
14 prepared for immediate consumption and on alcoholic beverages
15 sold by a business which provides for on premise consumption of
16 said food or alcoholic beverages; or (7) other taxes not based
17 on the selling or purchase price or gross receipts from the
18 use, sale or purchase of tangible personal property. This
19 Section is not intended to affect any existing tax on food and
20 beverages prepared for immediate consumption on the premises
21 where the sale occurs, or any existing tax on alcoholic
22 beverages, or any existing tax imposed on the charge for
23 renting a hotel or motel room, which was in effect January 15,
24 1988, or any extension of the effective date of such an
25 existing tax by ordinance of the municipality imposing the tax,
26 which extension is hereby authorized, in any non-home rule

1 municipality in which the imposition of such a tax has been
2 upheld by judicial determination, nor is this Section intended
3 to preempt the authority granted by Public Act 85-1006. This
4 Section is a limitation, pursuant to subsection (g) of Section
5 6 of Article VII of the Illinois Constitution, on the power of
6 home rule units to tax.

7 (Source: P.A. 93-1053, eff. 1-1-05.)

8 (65 ILCS 5/8-11-6b)

9 Sec. 8-11-6b. Home rule soft drink taxes.

10 (a) Except as provided in Sections 8-11-1, 8-11-5 and
11 8-11-6, or as provided in this Section, no home rule
12 municipality has the authority to impose, pursuant to its home
13 rule authority, a tax on the sale, purchase, or use of soft
14 drinks regardless of whether the measure of the tax is selling
15 price, purchase price, gross receipts, unit of volumetric
16 measure, or any other measure. Notwithstanding the provisions
17 of this subsection to the contrary, the corporate authorities
18 of a home rule municipality with a population in excess of
19 1,000,000 may impose, pursuant to its home rule authority, a
20 tax on the sale, purchase, or use of soft drinks using a unit
21 of volumetric measure as the measure of the tax. For purposes
22 of this subsection, the term "soft drink" has the meaning set
23 forth in Section 2-10 of the Retailers' Occupation Tax Act, as
24 may be amended from time to time, except that the term shall
25 not be limited to drinks contained in a closed or sealed

1 bottle, can, carton, or container. This Section is a denial and
2 limitation, under subsection (g) of Section 6 of Article VII of
3 the Illinois Constitution, on the power of home rule units to
4 tax.

5 (b) Through June 30, 2008, the ~~The~~ corporate authorities of
6 a home rule municipality with a population in excess of
7 1,000,000 may impose a tax, which shall not take effect prior
8 to April 1, 1994, upon all persons engaged in the business of
9 selling soft drinks (other than fountain soft drinks) at retail
10 in the municipality based on the gross receipts from those
11 sales made in the course of such business. If imposed, the tax
12 shall only be in 1/4% increments and shall not exceed 3%.

13 Beginning on July 1, 2008, the corporate authorities of a
14 home rule municipality with a population in excess of 1,000,000
15 may impose a tax upon all persons engaged in the business of
16 selling soft drinks (other than fountain soft drinks) at retail
17 in the municipality based on the volume of soft drinks sold in
18 the course of such business. if imposed the tax shall only be
19 in increments of one-tenth of a cent per ounce.

20 For purposes of this subsection, the term "soft drink" has
21 the meaning set forth in Section 2-10 of the Retailers'
22 Occupation Tax Act, as may be amended from time to time, except
23 that the term shall not be limited to drinks contained in a
24 closed or sealed bottle, can, carton or container; the term
25 "fountain soft drinks" means soft drinks which are prepared by
26 the retail seller of the soft drinks by mixing syrup or

1 concentrate with water, by hand or through a soft drink
2 dispensing machine, at or near the point and time of sale to
3 the retail purchaser; and the term "soft drink dispensing
4 machine" means a device which mixes soft drink syrup or
5 concentrate with water and dispenses the mixture into an open
6 container as a ready to drink soft drink.

7 The tax imposed under this subsection and all civil
8 penalties that may be assessed as an incident to that tax shall
9 be collected and enforced by the Illinois Department of
10 Revenue. The Department shall have full power to administer and
11 enforce this subsection, to collect all taxes and penalties so
12 collected in the manner provided in this subsection, and to
13 determine all rights to credit memoranda arising on account of
14 the erroneous payment of tax or penalty under this subsection.
15 In the administration of and compliance with this subsection,
16 the Department and persons who are subject to this subsection
17 shall have the same rights, remedies, privileges, immunities,
18 powers and duties, shall be subject to the same conditions,
19 restrictions, limitations, penalties, exclusions, exemptions,
20 and definitions of terms, and shall employ the same modes of
21 procedure applicable to the Retailers' Occupation Tax as are
22 prescribed in Sections 1, 2 through 2-65 (in respect to all
23 provisions of those Sections other than the State rate of
24 taxes), 2c, 2h, 2i, 3 (except as to the disposition of taxes
25 and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i,
26 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12, 13 and, until January 1,

1 1994, 13.5 of the Retailers' Occupation Tax Act, and on and
2 after January 1, 1994, all applicable provisions of the Uniform
3 Penalty and Interest Act that are not inconsistent with this
4 subsection, as fully as if provisions contained in those
5 Sections of the Retailers' Occupation Tax Act were set forth in
6 this subsection.

7 Persons subject to any tax imposed under the authority
8 granted by this subsection may reimburse themselves for their
9 seller's tax liability under this subsection by separately
10 stating that tax as an additional charge, which charge may be
11 stated in combination, in a single amount, with State taxes
12 that sellers are required to collect under the Use Tax Act
13 ~~pursuant to bracket schedules as the Department may prescribe.~~
14 The retailer filing the return shall, at the time of filing the
15 return, pay to the Department the amount of tax imposed under
16 this subsection, less the discount of 1.75%, which is allowed
17 to reimburse the retailer for the expenses incurred in keeping
18 records, preparing the filing returns, remitting the tax, and
19 supplying data to the Department on request.

20 Whenever the Department determines that a refund should be
21 made under this subsection to a claimant instead of issuing a
22 credit memoranda, the Department shall notify the State
23 Comptroller, who shall cause a warrant to be drawn for the
24 amount specified and to the person named in the notification
25 from the Department. The refund shall be paid by the State
26 Treasurer out of the Home Rule Municipal Soft Drink Retailers'

1 Occupation Tax Fund.

2 The Department shall forthwith pay over to the State
3 Treasurer, ex officio, as trustee, all taxes and penalties
4 collected hereunder. On or before the 25th day of each calendar
5 month, the Department shall prepare and certify to the
6 Comptroller the amount to be paid to named municipalities, the
7 municipalities to be those from which retailers have paid taxes
8 or penalties hereunder to the Department during the second
9 preceding calendar month. The amount to be paid to each
10 municipality shall be the amount collected hereunder during the
11 second preceding calendar month by the Department, less any
12 amounts determined by the Department to be necessary for the
13 payment of refunds, and less 4% for the first year the tax is
14 in effect and 2% thereafter of such balance, which sum shall be
15 deposited by the State Treasurer into the Tax Compliance and
16 Administration Fund in the State treasury from which it shall
17 be appropriated to the Department to cover the costs of the
18 Department in administering and enforcing the provisions of
19 this subsection. Within 10 days after receipt by the
20 Comptroller of the certification, the Comptroller shall cause
21 the orders to be drawn for the respective amount in accordance
22 with the directions contained in such certification.

23 Nothing in this Section shall be construed to authorize a
24 municipality to impose a tax upon the privilege of engaging in
25 any business which under the Constitution of the United States
26 may not be made the subject of taxation by the State.

1 A certificate of registration issued by the Illinois
2 Department of Revenue to a retailer under the Retailers'
3 Occupation Tax Act shall permit the registrant to engage in a
4 business that is taxed under the tax imposed under this
5 subsection and no additional registration shall be required
6 under the ordinance imposing a tax or under this subsection.

7 A certified copy of any ordinance imposing or discontinuing
8 any tax under this subsection or effecting a change in the rate
9 of that tax shall be filed with the Department, whereupon the
10 Department shall proceed to administer and enforce this
11 subsection on behalf of such municipality as of the first day
12 of February following the date of filing. This tax shall be
13 known and cited as the Home Rule Municipal Soft Drink
14 Retailers' Occupation Tax.

15 (c) The corporate authorities of a home rule municipality
16 with a population in excess of 1,000,000 may impose a tax,
17 which shall not take effect prior to April 1, 1994, on persons
18 engaged in the business of selling fountain soft drinks at
19 retail at a rate not to exceed 9% of the cost price of the
20 fountain soft drinks at retail in such municipality. For
21 purposes of this subsection, the term "soft drink" has the
22 meaning set forth in Section 2-10 of the Retailers' Occupation
23 Tax Act, as may be amended from time to time, except that the
24 term shall not be limited to drinks contained in a closed or
25 sealed bottle, can, carton, or container; the term "fountain
26 soft drinks" means soft drinks which are prepared by the retail

1 seller of the soft drinks by mixing soft drink syrup or
2 concentrate with water, by hand or through a soft drink
3 dispensing machine at or near the point and time of sale to the
4 retail purchaser; the term "soft drink dispensing machine"
5 means a device which mixes soft drink syrup or concentrate with
6 water and dispenses such mixture into an open container as a
7 ready to drink soft drink; the term "sold at retail" shall mean
8 any transfer of the ownership or title to tangible personal
9 property to a purchaser, for the purpose of use or consumption,
10 and not for the purpose of resale, for valuable consideration;
11 the term "cost price of the fountain soft drinks" means the
12 consideration paid by the retail seller of the fountain soft
13 drink, valued in money, whether paid in money or otherwise,
14 including cash, credits and services, and shall be determined
15 without any deduction on account of the supplier's cost of the
16 property sold or on account or any other expenses incurred by
17 the supplier, for the purchase of soft drink syrup or
18 concentrate which is designed to be further mixed with water
19 before it is consumed as a soft drink; and the term "supplier"
20 means any person who makes sales of soft drink syrup or
21 concentrate to a retail seller of fountain soft drinks for
22 purposes of resale as fountain soft drinks. The tax authorized
23 by this subsection shall be collected, enforced, and
24 administered by the municipality imposing the tax. Persons
25 subject to the tax may reimburse themselves for their tax
26 liability hereunder by separately stating an amount equal to

1 the tax as an additional charge to their retail purchasers or
2 may include such amount as part of the selling price of the
3 soft drink. The municipality imposing the tax shall provide for
4 its collection from the person subject to the tax by requiring
5 that the supplier to the person subject to the tax collect and
6 remit the tax to the municipality. If the supplier fails to
7 collect the tax or if the person subject to the tax fails to
8 pay the tax to its supplier, the person subject to the tax
9 shall make the tax payment directly to the municipality.
10 Payment of the tax by the retailer to the supplier shall
11 relieve the retailer of any further liability for the tax.

12 (d) If either tax imposed or authorized by this Section
13 8-11-6b is repealed by the General Assembly or has its maximum
14 rate reduced by the General Assembly, or is declared unlawful
15 or unconstitutional on its face by any court of competent
16 jurisdiction after all appeals have been exhausted or the time
17 to appeal has expired, then this Section 8-11-6b is
18 automatically repealed and no longer effective without further
19 action by the General Assembly.

20 (e) Notwithstanding the preemption of taxes on the sale,
21 purchase or use of soft drinks, taxes on the sale, purchase, or
22 use of soft drinks which had been imposed by a municipality
23 prior to the effective date of this amendatory Act of 1993 are
24 specifically authorized under this Section for sales made on or
25 after the effective date of this amendatory Act of 1993 through
26 March 31, 1994.

1 (Source: P.A. 88-507.)

2 (65 ILCS 5/11-74.3-6)

3 Sec. 11-74.3-6. Business district revenue and obligations.

4 (a) If the corporate authorities of a municipality have
5 approved a business district development or redevelopment plan
6 and have elected to impose a tax by ordinance pursuant to
7 subsections (b), (c), or (d) of this Section, each year after
8 the date of the approval of the ordinance and until all
9 business district project costs and all municipal obligations
10 financing the business district project costs, if any, have
11 been paid in accordance with the business district development
12 or redevelopment plan, but in no event longer than 23 years
13 after the date of adoption of the ordinance approving the
14 business district development or redevelopment plan, all
15 amounts generated by the retailers' occupation tax and service
16 occupation tax shall be collected and the tax shall be enforced
17 by the Department of Revenue in the same manner as all
18 retailers' occupation taxes and service occupation taxes
19 imposed in the municipality imposing the tax and all amounts
20 generated by the hotel operators' occupation tax shall be
21 collected and the tax shall be enforced by the municipality in
22 the same manner as all hotel operators' occupation taxes
23 imposed in the municipality imposing the tax. The corporate
24 authorities of the municipality shall deposit the proceeds of
25 the taxes imposed under subsections (b), (c), and (d) into a

1 special fund held by the corporate authorities of the
2 municipality called the Business District Tax Allocation Fund
3 for the purpose of paying business district project costs and
4 obligations incurred in the payment of those costs.

5 (b) The corporate authorities of a municipality that has
6 established a business district under this Division 74.3 may,
7 by ordinance or resolution, impose a Business District
8 Retailers' Occupation Tax upon all persons engaged in the
9 business of selling tangible personal property, other than an
10 item of tangible personal property titled or registered with an
11 agency of this State's government, at retail in the business
12 district at a rate not to exceed 1% of the gross receipts from
13 the sales made in the course of such business, to be imposed
14 only in 0.25% increments. The tax may not be imposed on food
15 for human consumption that is to be consumed off the premises
16 where it is sold (other than alcoholic beverages, soft drinks,
17 and food that has been prepared for immediate consumption),
18 prescription and nonprescription medicines, drugs, medical
19 appliances, modifications to a motor vehicle for the purpose of
20 rendering it usable by a disabled person, and insulin, urine
21 testing materials, syringes, and needles used by diabetics, for
22 human use.

23 In order for the State to become a member of the
24 Streamlined Sales and Use Tax Agreement and in recognition of
25 the rapidly expanding technologies by which prewritten
26 computer software is transferred, it is the intent of the

1 General Assembly that the tax imposed under this subsection be
2 imposed on the same base as the Retailers' Occupation Tax Act
3 and that the tax on prewritten computer software be applied
4 regardless of the manner in which the prewritten computer
5 software is transferred. If, on the effective date of this
6 amendatory Act of the 95th General Assembly, a unit of local
7 government has imposed a tax under this subsection by ordinance
8 or resolution, or if, after the effective date of this
9 amendatory Act of the 95th General Assembly, a unit of local
10 government imposes a tax under this subsection by ordinance or
11 resolution, the tax imposed by that ordinance or resolution
12 includes transfers of prewritten computer software and, on and
13 after July 1, 2008, all items subject to tax under the
14 Retailers' Occupation Tax Act, including but not limited to
15 food and food ingredients for human consumption, prescription
16 drugs, and over the counter drugs.

17 The tax imposed under this subsection and all civil
18 penalties that may be assessed as an incident thereof shall be
19 collected and enforced by the Department of Revenue. The
20 certificate of registration that is issued by the Department to
21 a retailer under the Retailers' Occupation Tax Act shall permit
22 the retailer to engage in a business that is taxable under any
23 ordinance or resolution enacted pursuant to this subsection
24 without registering separately with the Department under such
25 ordinance or resolution or under this subsection. The
26 Department of Revenue shall have full power to administer and

1 enforce this subsection; to collect all taxes and penalties due
2 under this subsection in the manner hereinafter provided; and
3 to determine all rights to credit memoranda arising on account
4 of the erroneous payment of tax or penalty under this
5 subsection. In the administration of, and compliance with, this
6 subsection, the Department and persons who are subject to this
7 subsection shall have the same rights, remedies, privileges,
8 immunities, powers and duties, and be subject to the same
9 conditions, restrictions, limitations, penalties, exclusions,
10 exemptions, and definitions of terms and employ the same modes
11 of procedure, as are prescribed in Sections 1, 1a through 1o, 2
12 through 2-65 (in respect to all provisions therein other than
13 the State rate of tax), 2c through 2h, 3 (except as to the
14 disposition of taxes and penalties collected), 3.5, 3.6, 3.8,
15 4, 5, 5a, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7,
16 8, 9, 10, 11, 12, 13, and 14 of the Retailers' Occupation Tax
17 Act and all provisions of the Uniform Penalty and Interest Act,
18 as fully as if those provisions were set forth herein.

19 Persons subject to any tax imposed under this subsection
20 may reimburse themselves for their seller's tax liability under
21 this subsection by separately stating the tax as an additional
22 charge, which charge may be stated in combination, in a single
23 amount, with State taxes that sellers are required to collect
24 under the Use Tax Act, in accordance with such bracket
25 schedules as the Department may prescribe.

26 Whenever the Department determines that a refund should be

1 made under this subsection to a claimant instead of issuing a
2 credit memorandum, the Department shall notify the State
3 Comptroller, who shall cause the order to be drawn for the
4 amount specified and to the person named in the notification
5 from the Department. The refund shall be paid by the State
6 Treasurer out of the business district retailers' occupation
7 tax fund.

8 The Department shall immediately pay over to the State
9 Treasurer, ex officio, as trustee, all taxes, penalties, and
10 interest collected under this subsection for deposit into the
11 business district retailers' occupation tax fund. On or before
12 the 25th day of each calendar month, the Department shall
13 prepare and certify to the Comptroller the disbursement of
14 stated sums of money to named municipalities from the business
15 district retailers' occupation tax fund, the municipalities to
16 be those from which retailers have paid taxes or penalties
17 under this subsection to the Department during the second
18 preceding calendar month. The amount to be paid to each
19 municipality shall be the amount (not including credit
20 memoranda) collected under this subsection during the second
21 preceding calendar month by the Department plus an amount the
22 Department determines is necessary to offset any amounts that
23 were erroneously paid to a different taxing body, and not
24 including an amount equal to the amount of refunds made during
25 the second preceding calendar month by the Department, less 2%
26 of that amount, which shall be deposited into the Tax

1 Compliance and Administration Fund and shall be used by the
2 Department, subject to appropriation, to cover the costs of the
3 Department in administering and enforcing the provisions of
4 this subsection, on behalf of such municipality, and not
5 including any amount that the Department determines is
6 necessary to offset any amounts that were payable to a
7 different taxing body but were erroneously paid to the
8 municipality. Within 10 days after receipt by the Comptroller
9 of the disbursement certification to the municipalities
10 provided for in this subsection to be given to the Comptroller
11 by the Department, the Comptroller shall cause the orders to be
12 drawn for the respective amounts in accordance with the
13 directions contained in the certification. The proceeds of the
14 tax paid to municipalities under this subsection shall be
15 deposited into the Business District Tax Allocation Fund by the
16 municipality.

17 An ordinance or resolution imposing or discontinuing the
18 tax under this subsection or effecting a change in the rate
19 thereof shall either (i) be adopted and a certified copy
20 thereof filed with the Department on or before the first day of
21 April, whereupon the Department, if all other requirements of
22 this subsection are met, shall proceed to administer and
23 enforce this subsection as of the first day of July next
24 following the adoption and filing; or (ii) be adopted and a
25 certified copy thereof filed with the Department on or before
26 the first day of October, whereupon, if all other requirements

1 of this subsection are met, the Department shall proceed to
2 administer and enforce this subsection as of the first day of
3 January next following the adoption and filing.

4 The Department of Revenue shall not administer or enforce
5 an ordinance imposing, discontinuing, or changing the rate of
6 the tax under this subsection, until the municipality also
7 provides, in the manner prescribed by the Department, the
8 boundaries of the business district in such a way that the
9 Department can determine by its address whether a business is
10 located in the business district. The municipality must provide
11 this boundary information to the Department on or before April
12 1 for administration and enforcement of the tax under this
13 subsection by the Department beginning on the following July 1
14 and on or before October 1 for administration and enforcement
15 of the tax under this subsection by the Department beginning on
16 the following January 1. The Department of Revenue shall not
17 administer or enforce any change made to the boundaries of a
18 business district until the municipality reports the boundary
19 change to the Department in the manner prescribed by the
20 Department. The municipality must provide this boundary change
21 information to the Department on or before April 1 for
22 administration and enforcement by the Department of the change
23 beginning on the following July 1 and on or before October 1
24 for administration and enforcement by the Department of the
25 change beginning on the following January 1. Beginning on July
26 1, 2008, an ordinance or resolution imposing or discontinuing

1 the tax hereunder or effecting a change in the rate thereof
2 shall either (i) be adopted and a certified copy thereof filed
3 with the Department on or before the first day of January,
4 whereupon the Department shall proceed to administer and
5 enforce this Section as of the first day of July next following
6 the adoption and filing; or (ii) be adopted and a certified
7 copy thereof filed with the Department on or before the first
8 day of July, whereupon the Department shall proceed to
9 administer and enforce this Section as of the first day of
10 January next following the adoption and filing. Beginning on
11 July 1, 2008, notices of local jurisdiction boundary changes
12 shall either (i) be filed with the Department on or before the
13 first day of January, whereupon the Department shall proceed to
14 administer and enforce this Section in regards to such boundary
15 changes as of the first day of July next following such filing;
16 or (ii) be filed with the Department on or before the first day
17 of July, whereupon the Department shall proceed to administer
18 and enforce this Section in regards to such boundary changes as
19 of the first day of January next following the adoption and
20 filing.

21 The retailers in the business district shall be responsible
22 for charging the tax imposed under this subsection. If a
23 retailer is incorrectly included or excluded from the list of
24 those required to collect the tax under this subsection, both
25 the Department of Revenue and the retailer shall be held
26 harmless if they reasonably relied on information provided by

1 the municipality.

2 A municipality that imposes the tax under this subsection
3 must submit to the Department of Revenue any other information
4 as the Department may require for the administration and
5 enforcement of the tax.

6 When certifying the amount of a monthly disbursement to a
7 municipality under this subsection, the Department shall
8 increase or decrease the amount by an amount necessary to
9 offset any misallocation of previous disbursements. The offset
10 amount shall be the amount erroneously disbursed within the
11 previous 6 months from the time a misallocation is discovered.

12 Nothing in this subsection shall be construed to authorize
13 the municipality to impose a tax upon the privilege of engaging
14 in any business which under the Constitution of the United
15 States may not be made the subject of taxation by this State.

16 If a tax is imposed under this subsection (b), a tax shall
17 also be imposed under subsection (c) of this Section.

18 (c) If a tax has been imposed under subsection (b), a
19 Business District Service Occupation Tax shall also be imposed
20 upon all persons engaged, in the business district, in the
21 business of making sales of service, who, as an incident to
22 making those sales of service, transfer tangible personal
23 property within the business district, either in the form of
24 tangible personal property or in the form of real estate as an
25 incident to a sale of service. The tax shall be imposed at the
26 same rate as the tax imposed in subsection (b) and shall not

1 exceed 1% of the selling price of tangible personal property so
2 transferred within the business district, to be imposed only in
3 0.25% increments. The tax may not be imposed on food for human
4 consumption that is to be consumed off the premises where it is
5 sold (other than alcoholic beverages, soft drinks, and food
6 that has been prepared for immediate consumption),
7 prescription and nonprescription medicines, drugs, medical
8 appliances, modifications to a motor vehicle for the purpose of
9 rendering it usable by a disabled person, and insulin, urine
10 testing materials, syringes, and needles used by diabetics, for
11 human use.

12 In order for the State to become a member of the
13 Streamlined Sales and Use Tax Agreement, it is the intent of
14 the General Assembly that the tax imposed under this subsection
15 be imposed on the same base as the Service Occupation Tax Act.

16 If, on the effective date of this amendatory Act of the
17 95th General Assembly, a unit of local government has imposed a
18 tax under this subsection by ordinance or resolution, or if,
19 after the effective date of this amendatory Act of the 95th
20 General Assembly, a unit of local government imposes a tax
21 under this subsection by ordinance or resolution, the tax
22 imposed by that ordinance or resolution includes, on and after
23 July 1, 2008, all items subject to tax under the Service
24 Occupation Tax Act, including food and food ingredients for
25 human consumption, prescription drugs, and over the counter
26 drugs.

1 The tax imposed under this subsection and all civil
2 penalties that may be assessed as an incident thereof shall be
3 collected and enforced by the Department of Revenue. The
4 certificate of registration which is issued by the Department
5 to a retailer under the Retailers' Occupation Tax Act or under
6 the Service Occupation Tax Act shall permit such registrant to
7 engage in a business which is taxable under any ordinance or
8 resolution enacted pursuant to this subsection without
9 registering separately with the Department under such
10 ordinance or resolution or under this subsection. The
11 Department of Revenue shall have full power to administer and
12 enforce this subsection; to collect all taxes and penalties due
13 under this subsection; to dispose of taxes and penalties so
14 collected in the manner hereinafter provided; and to determine
15 all rights to credit memoranda arising on account of the
16 erroneous payment of tax or penalty under this subsection. In
17 the administration of, and compliance with this subsection, the
18 Department and persons who are subject to this subsection shall
19 have the same rights, remedies, privileges, immunities, powers
20 and duties, and be subject to the same conditions,
21 restrictions, limitations, penalties, exclusions, exemptions,
22 and definitions of terms and employ the same modes of procedure
23 as are prescribed in Sections 2, 2a through 2d, 3 through 3-50
24 (in respect to all provisions therein other than the State rate
25 of tax), 4 (except that the reference to the State shall be to
26 the business district), 5, 7, 8 (except that the jurisdiction

1 to which the tax shall be a debt to the extent indicated in
2 that Section 8 shall be the municipality), 9 (except as to the
3 disposition of taxes and penalties collected, and except that
4 the returned merchandise credit for this tax may not be taken
5 against any State tax), 10, 11, 12 (except the reference
6 therein to Section 2b of the Retailers' Occupation Tax Act), 13
7 (except that any reference to the State shall mean the
8 municipality), the first paragraph of Section 15, and Sections
9 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and all
10 provisions of the Uniform Penalty and Interest Act, as fully as
11 if those provisions were set forth herein.

12 Persons subject to any tax imposed under the authority
13 granted in this subsection may reimburse themselves for their
14 serviceman's tax liability hereunder by separately stating the
15 tax as an additional charge, which charge may be stated in
16 combination, in a single amount, with State tax that servicemen
17 are authorized to collect under the Service Use Tax Act, in
18 accordance with such bracket schedules as the Department may
19 prescribe.

20 Whenever the Department determines that a refund should be
21 made under this subsection to a claimant instead of issuing
22 credit memorandum, the Department shall notify the State
23 Comptroller, who shall cause the order to be drawn for the
24 amount specified, and to the person named, in such notification
25 from the Department. Such refund shall be paid by the State
26 Treasurer out of the business district retailers' occupation

1 tax fund.

2 The Department shall forthwith pay over to the State
3 Treasurer, ex-officio, as trustee, all taxes, penalties, and
4 interest collected under this subsection for deposit into the
5 business district retailers' occupation tax fund. On or before
6 the 25th day of each calendar month, the Department shall
7 prepare and certify to the Comptroller the disbursement of
8 stated sums of money to named municipalities from the business
9 district retailers' occupation tax fund, the municipalities to
10 be those from which suppliers and servicemen have paid taxes or
11 penalties under this subsection to the Department during the
12 second preceding calendar month. The amount to be paid to each
13 municipality shall be the amount (not including credit
14 memoranda) collected under this subsection during the second
15 preceding calendar month by the Department, less 2% of that
16 amount, which shall be deposited into the Tax Compliance and
17 Administration Fund and shall be used by the Department,
18 subject to appropriation, to cover the costs of the Department
19 in administering and enforcing the provisions of this
20 subsection, and not including an amount equal to the amount of
21 refunds made during the second preceding calendar month by the
22 Department on behalf of such municipality. Within 10 days after
23 receipt, by the Comptroller, of the disbursement certification
24 to the municipalities, provided for in this subsection to be
25 given to the Comptroller by the Department, the Comptroller
26 shall cause the orders to be drawn for the respective amounts

1 in accordance with the directions contained in such
2 certification. The proceeds of the tax paid to municipalities
3 under this subsection shall be deposited into the Business
4 District Tax Allocation Fund by the municipality.

5 An ordinance or resolution imposing or discontinuing the
6 tax under this subsection or effecting a change in the rate
7 thereof shall either (i) be adopted and a certified copy
8 thereof filed with the Department on or before the first day of
9 April, whereupon the Department, if all other requirements of
10 this subsection are met, shall proceed to administer and
11 enforce this subsection as of the first day of July next
12 following the adoption and filing; or (ii) be adopted and a
13 certified copy thereof filed with the Department on or before
14 the first day of October, whereupon, if all other conditions of
15 this subsection are met, the Department shall proceed to
16 administer and enforce this subsection as of the first day of
17 January next following the adoption and filing.

18 The Department of Revenue shall not administer or enforce
19 an ordinance imposing, discontinuing, or changing the rate of
20 the tax under this subsection, until the municipality also
21 provides, in the manner prescribed by the Department, the
22 boundaries of the business district in such a way that the
23 Department can determine by its address whether a business is
24 located in the business district. The municipality must provide
25 this boundary information to the Department on or before April
26 1 for administration and enforcement of the tax under this

1 subsection by the Department beginning on the following July 1
2 and on or before October 1 for administration and enforcement
3 of the tax under this subsection by the Department beginning on
4 the following January 1. The Department of Revenue shall not
5 administer or enforce any change made to the boundaries of a
6 business district until the municipality reports the boundary
7 change to the Department in the manner prescribed by the
8 Department. The municipality must provide this boundary change
9 information to the Department on or before April 1 for
10 administration and enforcement by the Department of the change
11 beginning on the following July 1 and on or before October 1
12 for administration and enforcement by the Department of the
13 change beginning on the following January 1. Beginning on July
14 1, 2008, an ordinance or resolution imposing or discontinuing
15 the tax hereunder or effecting a change in the rate thereof
16 shall either (i) be adopted and a certified copy thereof filed
17 with the Department on or before the first day of January,
18 whereupon the Department shall proceed to administer and
19 enforce this Section as of the first day of July next following
20 the adoption and filing; or (ii) be adopted and a certified
21 copy thereof filed with the Department on or before the first
22 day of July, whereupon the Department shall proceed to
23 administer and enforce this Section as of the first day of
24 January next following the adoption and filing. Beginning on
25 July 1, 2008, notices of local jurisdiction boundary changes
26 shall either (i) be filed with the Department on or before the

1 first day of January, whereupon the Department shall proceed to
2 administer and enforce this Section in regards to such boundary
3 changes as of the first day of July next following such filing;
4 or (ii) be filed with the Department on or before the first day
5 of July, whereupon the Department shall proceed to administer
6 and enforce this Section in regards to such boundary changes as
7 of the first day of January next following the adoption and
8 filing.

9 The retailers in the business district shall be responsible
10 for charging the tax imposed under this subsection. If a
11 retailer is incorrectly included or excluded from the list of
12 those required to collect the tax under this subsection, both
13 the Department of Revenue and the retailer shall be held
14 harmless if they reasonably relied on information provided by
15 the municipality.

16 A municipality that imposes the tax under this subsection
17 must submit to the Department of Revenue any other information
18 as the Department may require for the administration and
19 enforcement of the tax.

20 Nothing in this subsection shall be construed to authorize
21 the municipality to impose a tax upon the privilege of engaging
22 in any business which under the Constitution of the United
23 States may not be made the subject of taxation by the State.

24 If a tax is imposed under this subsection (c), a tax shall
25 also be imposed under subsection (b) of this Section.

26 (d) By ordinance, a municipality that has established a

1 business district under this Division 74.3 may impose an
2 occupation tax upon all persons engaged in the business
3 district in the business of renting, leasing, or letting rooms
4 in a hotel, as defined in the Hotel Operators' Occupation Tax
5 Act, at a rate not to exceed 1% of the gross rental receipts
6 from the renting, leasing, or letting of hotel rooms within the
7 business district, to be imposed only in 0.25% increments,
8 excluding, however, from gross rental receipts the proceeds of
9 renting, leasing, or letting to permanent residents of a hotel,
10 as defined in the Hotel Operators' Occupation Tax Act, and
11 proceeds from the tax imposed under subsection (c) of Section
12 13 of the Metropolitan Pier and Exposition Authority Act.

13 The tax imposed by the municipality under this subsection
14 and all civil penalties that may be assessed as an incident to
15 that tax shall be collected and enforced by the municipality
16 imposing the tax. The municipality shall have full power to
17 administer and enforce this subsection, to collect all taxes
18 and penalties due under this subsection, to dispose of taxes
19 and penalties so collected in the manner provided in this
20 subsection, and to determine all rights to credit memoranda
21 arising on account of the erroneous payment of tax or penalty
22 under this subsection. In the administration of and compliance
23 with this subsection, the municipality and persons who are
24 subject to this subsection shall have the same rights,
25 remedies, privileges, immunities, powers, and duties, shall be
26 subject to the same conditions, restrictions, limitations,

1 penalties, and definitions of terms, and shall employ the same
2 modes of procedure as are employed with respect to a tax
3 adopted by the municipality under Section 8-3-14 of this Code.

4 Persons subject to any tax imposed under the authority
5 granted in this subsection may reimburse themselves for their
6 tax liability for that tax by separately stating that tax as an
7 additional charge, which charge may be stated in combination,
8 in a single amount, with State taxes imposed under the Hotel
9 Operators' Occupation Tax Act, and with any other tax.

10 Nothing in this subsection shall be construed to authorize
11 a municipality to impose a tax upon the privilege of engaging
12 in any business which under the Constitution of the United
13 States may not be made the subject of taxation by this State.

14 The proceeds of the tax imposed under this subsection shall
15 be deposited into the Business District Tax Allocation Fund.

16 (e) Obligations issued pursuant to subsection (14) of
17 Section 11-74.3-3 shall be retired in the manner provided in
18 the ordinance authorizing the issuance of those obligations by
19 the receipts of taxes levied as authorized in subsections (12)
20 and (13) of Section 11-74.3-3. The ordinance shall pledge all
21 of the amounts in and to be deposited in the Business District
22 Tax Allocation Fund to the payment of business district project
23 costs and obligations. Obligations issued pursuant to
24 subsection (14) of Section 11-74.3-3 may be sold at public or
25 private sale at a price determined by the corporate authorities
26 of the municipality and no referendum approval of the electors

1 shall be required as a condition to the issuance of those
2 obligations. The ordinance authorizing the obligations may
3 require that the obligations contain a recital that they are
4 issued pursuant to subsection (14) of Section 11-74.3-3 and
5 this recital shall be conclusive evidence of their validity and
6 of the regularity of their issuance. The corporate authorities
7 of the municipality may also issue its obligations to refund,
8 in whole or in part, obligations previously issued by the
9 municipality under the authority of this Code, whether at or
10 prior to maturity. All obligations issued pursuant to
11 subsection (14) of Section 11-74.3-3 shall not be regarded as
12 indebtedness of the municipality issuing the obligations for
13 the purpose of any limitation imposed by law.

14 (f) When business district costs, including, without
15 limitation, all municipal obligations financing business
16 district project costs incurred under Section 11-74.3-3 have
17 been paid, any surplus funds then remaining in the Business
18 District Tax Allocation Fund shall be distributed to the
19 municipal treasurer for deposit into the municipal general
20 corporate fund. Upon payment of all business district project
21 costs and retirement of obligations, but in no event more than
22 23 years after the date of adoption of the ordinance approving
23 the business district development or redevelopment plan, the
24 municipality shall adopt an ordinance immediately rescinding
25 the taxes imposed pursuant to subsections (12) and (13) of
26 Section 11-74.3-3.

1 (Source: P.A. 93-1053, eff. 1-1-05; 93-1089, eff. 3-7-05.)

2 Section 45. The Salem Civic Center Code is amended by
3 changing Section 245-12 as follows:

4 (70 ILCS 200/245-12)

5 Sec. 245-12. Use and occupation taxes.

6 (a) The Authority may adopt a resolution that authorizes a
7 referendum on the question of whether the Authority shall be
8 authorized to impose a retailers' occupation tax, a service
9 occupation tax, and a use tax in one-quarter percent increments
10 at a rate not to exceed 1%. The Authority shall certify the
11 question to the proper election authorities who shall submit
12 the question to the voters of the metropolitan area at the next
13 regularly scheduled election in accordance with the general
14 election law. The question shall be in substantially the
15 following form:

16 "Shall the Salem Civic Center Authority be authorized to
17 impose a retailers' occupation tax, a service occupation
18 tax, and a use tax at the rate of (rate) for the sole
19 purpose of obtaining funds for the support, construction,
20 maintenance, or financing of a facility of the Authority?"

21 Votes shall be recorded as "yes" or "no". If a majority of
22 all votes cast on the proposition are in favor of the
23 proposition, the Authority is authorized to impose the tax.

24 (b) The Authority shall impose the retailers' occupation

1 tax upon all persons engaged in the business of selling
2 tangible personal property at retail in the metropolitan area,
3 at the rate approved by referendum, on the gross receipts from
4 the sales made in the course of such business within the
5 metropolitan area.

6 In order for the State to become a member of the
7 Streamlined Sales and Use Tax Agreement and in recognition of
8 the rapidly expanding technologies by which prewritten
9 computer software is transferred, it is the intent of the
10 General Assembly that the tax imposed under this subsection be
11 imposed on the same base as the Retailers' Occupation Tax Act
12 and that the tax on prewritten computer software be applied
13 regardless of the manner in which the prewritten computer
14 software is transferred.

15 If, on the effective date of this amendatory Act of the
16 95th General Assembly, a unit of local government has imposed a
17 tax under this subsection by ordinance or resolution, or if,
18 after the effective date of this amendatory Act of the 95th
19 General Assembly, a unit of local government imposes a tax
20 under this subsection by ordinance or resolution, the tax
21 imposed by that ordinance or resolution includes transfers of
22 prewritten computer software and, on and after July 1, 2008,
23 all items subject to tax under the Retailers' Occupation Tax
24 Act, including but not limited to food and food ingredients for
25 human consumption, prescription drugs, and over the counter
26 drugs.

1 The tax imposed under this Section and all civil penalties
2 that may be assessed as an incident thereof shall be collected
3 and enforced by the Department of Revenue. The Department has
4 full power to administer and enforce this Section; to collect
5 all taxes and penalties so collected in the manner provided in
6 this Section; and to determine all rights to credit memoranda
7 arising on account of the erroneous payment of tax or penalty
8 hereunder. In the administration of, and compliance with, this
9 Section, the Department and persons who are subject to this
10 Section shall (i) have the same rights, remedies, privileges,
11 immunities, powers and duties, (ii) be subject to the same
12 conditions, restrictions, limitations, penalties, exclusions,
13 exemptions, and definitions of terms, and (iii) employ the same
14 modes of procedure as are prescribed in Sections 1, 1a, 1a-1,
15 1c, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2, 2-5, 2-5.5, 2-10 (in
16 respect to all provisions therein other than the State rate of
17 tax), 2-15 through 2-70, 2a, 2b, 2c, 3 (except as to the
18 disposition of taxes and penalties collected and provisions
19 related to quarter monthly payments), 3.5, 3.6, 3.8, 4, 5, 5a,
20 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9,
21 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
22 and Section 3-7 of the Uniform Penalty and Interest Act, as
23 fully as if those provisions were set forth in this subsection.

24 Persons subject to any tax imposed under this subsection
25 may reimburse themselves for their seller's tax liability by
26 separately stating the tax as an additional charge, which

1 charge may be stated in combination, in a single amount, with
2 State taxes that sellers are required to collect, in accordance
3 with such bracket schedules as the Department may prescribe.

4 Whenever the Department determines that a refund should be
5 made under this subsection to a claimant instead of issuing a
6 credit memorandum, the Department shall notify the State
7 Comptroller, who shall cause the warrant to be drawn for the
8 amount specified, and to the person named, in the notification
9 from the Department. The refund shall be paid by the State
10 Treasurer out of the tax fund referenced under paragraph (g) of
11 this Section.

12 If a tax is imposed under this subsection (b), a tax shall
13 also be imposed at the same rate under subsections (c) and (d)
14 of this Section.

15 Through June 30, 2008, for ~~For~~ the purpose of determining
16 whether a tax authorized under this Section is applicable, a
17 retail sale, by a producer of coal or other mineral mined in
18 Illinois, is a sale at retail at the place where the coal or
19 other mineral mined in Illinois is extracted from the earth.
20 This paragraph does not apply to coal or other mineral when it
21 is delivered or shipped by the seller to the purchaser at a
22 point outside Illinois so that the sale is exempt under the
23 Federal Constitution as a sale in interstate or foreign
24 commerce.

25 Nothing in this Section shall be construed to authorize the
26 Authority to impose a tax upon the privilege of engaging in any

1 business which under the Constitution of the United States may
2 not be made the subject of taxation by this State.

3 (c) If a tax has been imposed under subsection (b), a
4 service occupation tax shall also be imposed at the same rate
5 upon all persons engaged, in the metropolitan area, in the
6 business of making sales of service, who, as an incident to
7 making those sales of service, transfer tangible personal
8 property within the metropolitan area as an incident to a sale
9 of service.

10 In order for the State to become a member of the
11 Streamlined Sales and Use Tax Agreement, it is the intent of
12 the General Assembly that the tax imposed under this subsection
13 be imposed on the same base as the Service Occupation Tax Act.

14 If, on the effective date of this amendatory Act of the
15 95th General Assembly, a unit of local government has imposed a
16 tax under this subsection by ordinance or resolution, or if,
17 after the effective date of this amendatory Act of the 95th
18 General Assembly, a unit of local government imposes a tax
19 under this subsection by ordinance or resolution, the tax
20 imposed by that ordinance or resolution includes, on and after
21 July 1, 2008, all items subject to tax under the Service
22 Occupation Tax Act, including food and food ingredients for
23 human consumption, prescription drugs, and over the counter
24 drugs.

25 The tax imposed under this subsection and all civil
26 penalties that may be assessed as an incident thereof shall be

1 collected and enforced by the Department of Revenue. The
2 Department has full power to administer and enforce this
3 paragraph; to collect all taxes and penalties due hereunder; to
4 dispose of taxes and penalties so collected in the manner
5 hereinafter provided; and to determine all rights to credit
6 memoranda arising on account of the erroneous payment of tax or
7 penalty hereunder. In the administration of, and compliance
8 with this paragraph, the Department and persons who are subject
9 to this paragraph shall (i) have the same rights, remedies,
10 privileges, immunities, powers, and duties, (ii) be subject to
11 the same conditions, restrictions, limitations, penalties,
12 exclusions, exemptions, and definitions of terms, and (iii)
13 employ the same modes of procedure as are prescribed in
14 Sections 2 (except that the reference to State in the
15 definition of supplier maintaining a place of business in this
16 State shall mean the metropolitan area), 2a, 2b, 3 through 3-55
17 (in respect to all provisions therein other than the State rate
18 of tax), 4 (except that the reference to the State shall be to
19 the Authority), 5, 7, 8 (except that the jurisdiction to which
20 the tax shall be a debt to the extent indicated in that Section
21 8 shall be the Authority), 9 (except as to the disposition of
22 taxes and penalties collected, and except that the returned
23 merchandise credit for this tax may not be taken against any
24 State tax), 11, 12 (except the reference therein to Section 2b
25 of the Retailers' Occupation Tax Act), 13 (except that any
26 reference to the State shall mean the Authority), 15, 16, 17,

1 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7
2 of the Uniform Penalty and Interest Act, as fully as if those
3 provisions were set forth herein.

4 Persons subject to any tax imposed under the authority
5 granted in this subsection may reimburse themselves for their
6 serviceman's tax liability by separately stating the tax as an
7 additional charge, which charge may be stated in combination,
8 in a single amount, with State tax that servicemen are
9 authorized to collect under the Service Use Tax Act, in
10 accordance with such bracket schedules as the Department may
11 prescribe.

12 Whenever the Department determines that a refund should be
13 made under this subsection to a claimant instead of issuing a
14 credit memorandum, the Department shall notify the State
15 Comptroller, who shall cause the warrant to be drawn for the
16 amount specified, and to the person named, in the notification
17 from the Department. The refund shall be paid by the State
18 Treasurer out of the tax fund referenced under paragraph (g) of
19 this Section.

20 Nothing in this paragraph shall be construed to authorize
21 the Authority to impose a tax upon the privilege of engaging in
22 any business which under the Constitution of the United States
23 may not be made the subject of taxation by the State.

24 (d) If a tax has been imposed under subsection (b), a use
25 tax shall also be imposed at the same rate upon the privilege
26 of using, in the metropolitan area, any item of tangible

1 personal property that is purchased outside the metropolitan
2 area at retail from a retailer, and that is titled or
3 registered at a location within the metropolitan area with an
4 agency of this State's government. "Selling price" is defined
5 as in the Use Tax Act. The tax shall be collected from persons
6 whose Illinois address for titling or registration purposes is
7 given as being in the metropolitan area. The tax shall be
8 collected by the Department of Revenue for the Authority. The
9 tax must be paid to the State, or an exemption determination
10 must be obtained from the Department of Revenue, before the
11 title or certificate of registration for the property may be
12 issued. The tax or proof of exemption may be transmitted to the
13 Department by way of the State agency with which, or the State
14 officer with whom, the tangible personal property must be
15 titled or registered if the Department and the State agency or
16 State officer determine that this procedure will expedite the
17 processing of applications for title or registration.

18 The Department has full power to administer and enforce
19 this paragraph; to collect all taxes, penalties and interest
20 due hereunder; to dispose of taxes, penalties and interest so
21 collected in the manner hereinafter provided; and to determine
22 all rights to credit memoranda or refunds arising on account of
23 the erroneous payment of tax, penalty or interest hereunder. In
24 the administration of, and compliance with, this subsection,
25 the Department and persons who are subject to this paragraph
26 shall (i) have the same rights, remedies, privileges,

1 immunities, powers, and duties, (ii) be subject to the same
2 conditions, restrictions, limitations, penalties, exclusions,
3 exemptions, and definitions of terms, and (iii) employ the same
4 modes of procedure as are prescribed in Sections 2 (except the
5 definition of "retailer maintaining a place of business in this
6 State"), 3, 3-5, 3-10, 3-45, 3-55, 3-65, 3-70, 3-85, 3a, 4, 6,
7 7, 8 (except that the jurisdiction to which the tax shall be a
8 debt to the extent indicated in that Section 8 shall be the
9 Authority), 9 (except provisions relating to quarter monthly
10 payments), 10, 11, 12, 12a, 12b, 13, 14, 15, 19, 20, 21, and 22
11 of the Use Tax Act and Section 3-7 of the Uniform Penalty and
12 Interest Act, that are not inconsistent with this paragraph, as
13 fully as if those provisions were set forth herein.

14 Whenever the Department determines that a refund should be
15 made under this subsection to a claimant instead of issuing a
16 credit memorandum, the Department shall notify the State
17 Comptroller, who shall cause the order to be drawn for the
18 amount specified, and to the person named, in the notification
19 from the Department. The refund shall be paid by the State
20 Treasurer out of the tax fund referenced under paragraph (g) of
21 this Section.

22 (e) A certificate of registration issued by the State
23 Department of Revenue to a retailer under the Retailers'
24 Occupation Tax Act or under the Service Occupation Tax Act
25 shall permit the registrant to engage in a business that is
26 taxed under the tax imposed under paragraphs (b), (c), or (d)

1 of this Section and no additional registration shall be
2 required. A certificate issued under the Use Tax Act or the
3 Service Use Tax Act shall be applicable with regard to any tax
4 imposed under paragraph (c) of this Section.

5 (f) The results of any election authorizing a proposition
6 to impose a tax under this Section or effecting a change in the
7 rate of tax shall be certified by the proper election
8 authorities and filed with the Illinois Department on or before
9 the first day of April. In addition, an ordinance imposing,
10 discontinuing, or effecting a change in the rate of tax under
11 this Section shall be adopted and a certified copy thereof
12 filed with the Department on or before the first day of April.
13 After proper receipt of such certifications, the Department
14 shall proceed to administer and enforce this Section as of the
15 first day of July next following such adoption and filing.

16 (g) The Department of Revenue shall, upon collecting any
17 taxes and penalties as provided in this Section, pay the taxes
18 and penalties over to the State Treasurer as trustee for the
19 Authority. The taxes and penalties shall be held in a trust
20 fund outside the State Treasury. On or before the 25th day of
21 each calendar month, the Department of Revenue shall prepare
22 and certify to the Comptroller of the State of Illinois the
23 amount to be paid to the Authority, which shall be the balance
24 in the fund, less any amount determined by the Department to be
25 necessary for the payment of refunds. Within 10 days after
26 receipt by the Comptroller of the certification of the amount

1 to be paid to the Authority, the Comptroller shall cause an
2 order to be drawn for payment for the amount in accordance with
3 the directions contained in the certification. Amounts
4 received from the tax imposed under this Section shall be used
5 only for the support, construction, maintenance, or financing
6 of a facility of the Authority.

7 (h) When certifying the amount of a monthly disbursement to
8 the Authority under this Section, the Department shall increase
9 or decrease the amounts by an amount necessary to offset any
10 miscalculation of previous disbursements. The offset amount
11 shall be the amount erroneously disbursed within the previous 6
12 months from the time a miscalculation is discovered.

13 (i) This Section may be cited as the Salem Civic Center Use
14 and Occupation Tax Law.

15 (Source: P.A. 90-328, eff. 1-1-98.)

16 Section 50. The Local Mass Transit District Act is amended
17 by changing Section 5.01 as follows:

18 (70 ILCS 3610/5.01) (from Ch. 111 2/3, par. 355.01)

19 Sec. 5.01. Metro East Mass Transit District; use and
20 occupation taxes.

21 (a) The Board of Trustees of any Metro East Mass Transit
22 District may, by ordinance adopted with the concurrence of
23 two-thirds of the then trustees, impose throughout the District
24 any or all of the taxes and fees provided in this Section. All

1 taxes and fees imposed under this Section shall be used only
2 for public mass transportation systems, and the amount used to
3 provide mass transit service to unserved areas of the District
4 shall be in the same proportion to the total proceeds as the
5 number of persons residing in the unserved areas is to the
6 total population of the District. Except as otherwise provided
7 in this Act, taxes imposed under this Section and civil
8 penalties imposed incident thereto shall be collected and
9 enforced by the State Department of Revenue. The Department
10 shall have the power to administer and enforce the taxes and to
11 determine all rights for refunds for erroneous payments of the
12 taxes.

13 (b) The Board may impose a Metro East Mass Transit District
14 Retailers' Occupation Tax upon all persons engaged in the
15 business of selling tangible personal property at retail in the
16 district at a rate of 1/4 of 1%, or as authorized under
17 subsection (d-5) of this Section, of the gross receipts from
18 the sales made in the course of such business within the
19 district.

20 In order for the State to become a member of the
21 Streamlined Sales and Use Tax Agreement and in recognition of
22 the rapidly expanding technologies by which prewritten
23 computer software is transferred, it is the intent of the
24 General Assembly that the tax imposed under this subsection be
25 imposed on the same base as the Retailers' Occupation Tax Act
26 and that the tax on prewritten computer software be applied

1 regardless of the manner in which the prewritten computer
2 software is transferred.

3 If, on the effective date of this amendatory Act of the
4 95th General Assembly, a unit of local government has imposed a
5 tax under this subsection by ordinance or resolution, or if,
6 after the effective date of this amendatory Act of the 95th
7 General Assembly, a unit of local government imposes a tax
8 under this subsection by ordinance or resolution, the tax
9 imposed by that ordinance or resolution includes transfers of
10 prewritten computer software and, on and after July 1, 2008,
11 all items subject to tax under the Retailers' Occupation Tax
12 Act, including but not limited to food and food ingredients for
13 human consumption, prescription drugs, and over the counter
14 drugs.

15 The tax imposed under this Section and all civil penalties
16 that may be assessed as an incident thereof shall be collected
17 and enforced by the State Department of Revenue. The Department
18 shall have full power to administer and enforce this Section;
19 to collect all taxes and penalties so collected in the manner
20 hereinafter provided; and to determine all rights to credit
21 memoranda arising on account of the erroneous payment of tax or
22 penalty hereunder. In the administration of, and compliance
23 with, this Section, the Department and persons who are subject
24 to this Section shall have the same rights, remedies,
25 privileges, immunities, powers and duties, and be subject to
26 the same conditions, restrictions, limitations, penalties,

1 exclusions, exemptions and definitions of terms and employ the
2 same modes of procedure, as are prescribed in Sections 1, 1a,
3 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all
4 provisions therein other than the State rate of tax), 2c, 3
5 (except as to the disposition of taxes and penalties
6 collected), 3.5, 3.6, 3.8, 4, 5, 5a, 5c, 5d, 5e, 5f, 5g, 5h,
7 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12, 13, and 14
8 of the Retailers' Occupation Tax Act and Section 3-7 of the
9 Uniform Penalty and Interest Act, as fully as if those
10 provisions were set forth herein.

11 Persons subject to any tax imposed under the Section may
12 reimburse themselves for their seller's tax liability
13 hereunder by separately stating the tax as an additional
14 charge, which charge may be stated in combination, in a single
15 amount, with State taxes that sellers are required to collect
16 under the Use Tax Act, and, through June 30, 2008, the sellers
17 may collect such tax in accordance with such bracket schedules
18 as the Department may prescribe.

19 Whenever the Department determines that a refund should be
20 made under this Section to a claimant instead of issuing a
21 credit memorandum, the Department shall notify the State
22 Comptroller, who shall cause the warrant to be drawn for the
23 amount specified, and to the person named, in the notification
24 from the Department. The refund shall be paid by the State
25 Treasurer out of the Metro East Mass Transit District tax fund
26 established under paragraph (g) of this Section.

1 If a tax is imposed under this subsection (b), a tax shall
2 also be imposed under subsections (c) and (d) of this Section.

3 On and before June 30, 2008, for ~~For~~ the purpose of
4 determining whether a tax authorized under this Section is
5 applicable, a retail sale, by a producer of coal or other
6 mineral mined in Illinois, is a sale at retail at the place
7 where the coal or other mineral mined in Illinois is extracted
8 from the earth. This paragraph does not apply to coal or other
9 mineral when it is delivered or shipped by the seller to the
10 purchaser at a point outside Illinois so that the sale is
11 exempt under the Federal Constitution as a sale in interstate
12 or foreign commerce.

13 No tax shall be imposed or collected under this subsection
14 on the sale of a motor vehicle in this State to a resident of
15 another state if that motor vehicle will not be titled in this
16 State.

17 Nothing in this Section shall be construed to authorize the
18 Metro East Mass Transit District to impose a tax upon the
19 privilege of engaging in any business which under the
20 Constitution of the United States may not be made the subject
21 of taxation by this State.

22 (c) If a tax has been imposed under subsection (b), a Metro
23 East Mass Transit District Service Occupation Tax shall also be
24 imposed upon all persons engaged, in the district, in the
25 business of making sales of service, who, as an incident to
26 making those sales of service, transfer tangible personal

1 property within the District, either in the form of tangible
2 personal property or in the form of real estate as an incident
3 to a sale of service. The tax rate shall be 1/4%, or as
4 authorized under subsection (d-5) of this Section, of the
5 selling price of tangible personal property so transferred
6 within the district.

7 In order for the State to become a member of the
8 Streamlined Sales and Use Tax Agreement, it is the intent of
9 the General Assembly that the tax imposed under this subsection
10 be imposed on the same base as the Service Occupation Tax Act.

11 If, on the effective date of this amendatory Act of the
12 95th General Assembly, a unit of local government has imposed a
13 tax under this subsection by ordinance or resolution, or if,
14 after the effective date of this amendatory Act of the 95th
15 General Assembly, a unit of local government imposes a tax
16 under this subsection by ordinance or resolution, the tax
17 imposed by that ordinance or resolution includes, on and after
18 July 1, 2008, all items subject to tax under the Service
19 Occupation Tax Act, including food and food ingredients for
20 human consumption, prescription drugs, and over the counter
21 drugs.

22 The tax imposed under this paragraph and all civil
23 penalties that may be assessed as an incident thereof shall be
24 collected and enforced by the State Department of Revenue. The
25 Department shall have full power to administer and enforce this
26 paragraph; to collect all taxes and penalties due hereunder; to

1 dispose of taxes and penalties so collected in the manner
2 hereinafter provided; and to determine all rights to credit
3 memoranda arising on account of the erroneous payment of tax or
4 penalty hereunder. In the administration of, and compliance
5 with this paragraph, the Department and persons who are subject
6 to this paragraph shall have the same rights, remedies,
7 privileges, immunities, powers and duties, and be subject to
8 the same conditions, restrictions, limitations, penalties,
9 exclusions, exemptions and definitions of terms and employ the
10 same modes of procedure as are prescribed in Sections 1a-1, 2
11 (except that the reference to State in the definition of
12 supplier maintaining a place of business in this State shall
13 mean the Authority), 2a, 3 through 3-50 (in respect to all
14 provisions therein other than the State rate of tax), 4 (except
15 that the reference to the State shall be to the Authority), 5,
16 7, 8 (except that the jurisdiction to which the tax shall be a
17 debt to the extent indicated in that Section 8 shall be the
18 District), 9 (except as to the disposition of taxes and
19 penalties collected, and except that the returned merchandise
20 credit for this tax may not be taken against any State tax),
21 10, 11, 12 (except the reference therein to Section 2b of the
22 Retailers' Occupation Tax Act), 13 (except that any reference
23 to the State shall mean the District), the first paragraph of
24 Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax
25 Act and Section 3-7 of the Uniform Penalty and Interest Act, as
26 fully as if those provisions were set forth herein.

1 Persons subject to any tax imposed under the authority
2 granted in this paragraph may reimburse themselves for their
3 serviceman's tax liability hereunder by separately stating the
4 tax as an additional charge, which charge may be stated in
5 combination, in a single amount, with State tax that servicemen
6 are authorized to collect under the Service Use Tax Act, and,
7 through June 30, 2008, the sellers may collect such tax in
8 accordance with such bracket schedules as the Department may
9 prescribe.

10 Whenever the Department determines that a refund should be
11 made under this paragraph to a claimant instead of issuing a
12 credit memorandum, the Department shall notify the State
13 Comptroller, who shall cause the warrant to be drawn for the
14 amount specified, and to the person named, in the notification
15 from the Department. The refund shall be paid by the State
16 Treasurer out of the Metro East Mass Transit District tax fund
17 established under paragraph (g) of this Section.

18 Nothing in this paragraph shall be construed to authorize
19 the District to impose a tax upon the privilege of engaging in
20 any business which under the Constitution of the United States
21 may not be made the subject of taxation by the State.

22 (d) If a tax has been imposed under subsection (b), a Metro
23 East Mass Transit District Use Tax shall also be imposed upon
24 the privilege of using, in the district, any item of tangible
25 personal property that is purchased outside the district at
26 retail from a retailer, and that is titled or registered with

1 an agency of this State's government, at a rate of 1/4%, or as
2 authorized under subsection (d-5) of this Section, of the
3 selling price of the tangible personal property within the
4 District, as "selling price" is defined in the Use Tax Act. The
5 tax shall be collected from persons whose Illinois address for
6 titling or registration purposes is given as being in the
7 District. The tax shall be collected by the Department of
8 Revenue for the Metro East Mass Transit District. The tax must
9 be paid to the State, or an exemption determination must be
10 obtained from the Department of Revenue, before the title or
11 certificate of registration for the property may be issued. The
12 tax or proof of exemption may be transmitted to the Department
13 by way of the State agency with which, or the State officer
14 with whom, the tangible personal property must be titled or
15 registered if the Department and the State agency or State
16 officer determine that this procedure will expedite the
17 processing of applications for title or registration.

18 The Department shall have full power to administer and
19 enforce this paragraph; to collect all taxes, penalties and
20 interest due hereunder; to dispose of taxes, penalties and
21 interest so collected in the manner hereinafter provided; and
22 to determine all rights to credit memoranda or refunds arising
23 on account of the erroneous payment of tax, penalty or interest
24 hereunder. In the administration of, and compliance with, this
25 paragraph, the Department and persons who are subject to this
26 paragraph shall have the same rights, remedies, privileges,

1 immunities, powers and duties, and be subject to the same
2 conditions, restrictions, limitations, penalties, exclusions,
3 exemptions and definitions of terms and employ the same modes
4 of procedure, as are prescribed in Sections 2 (except the
5 definition of "retailer maintaining a place of business in this
6 State"), 3 through 3-80 (except provisions pertaining to the
7 State rate of tax, and except provisions concerning collection
8 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
9 19 (except the portions pertaining to claims by retailers and
10 except the last paragraph concerning refunds), 20, 21, ~~and 22,~~
11 and 23 of the Use Tax Act and Section 3-7 of the Uniform
12 Penalty and Interest Act, that are not inconsistent with this
13 paragraph, as fully as if those provisions were set forth
14 herein.

15 Whenever the Department determines that a refund should be
16 made under this paragraph to a claimant instead of issuing a
17 credit memorandum, the Department shall notify the State
18 Comptroller, who shall cause the order to be drawn for the
19 amount specified, and to the person named, in the notification
20 from the Department. The refund shall be paid by the State
21 Treasurer out of the Metro East Mass Transit District tax fund
22 established under paragraph (g) of this Section.

23 (d-5) (A) The county board of any county participating in
24 the Metro East Mass Transit District may authorize, by
25 ordinance, a referendum on the question of whether the tax
26 rates for the Metro East Mass Transit District Retailers'

1 Occupation Tax, the Metro East Mass Transit District Service
2 Occupation Tax, and the Metro East Mass Transit District Use
3 Tax for the District should be increased from 0.25% to 0.75%.
4 Upon adopting the ordinance, the county board shall certify the
5 proposition to the proper election officials who shall submit
6 the proposition to the voters of the District at the next
7 election, in accordance with the general election law.

8 The proposition shall be in substantially the following
9 form:

10 Shall the tax rates for the Metro East Mass Transit
11 District Retailers' Occupation Tax, the Metro East Mass
12 Transit District Service Occupation Tax, and the Metro East
13 Mass Transit District Use Tax be increased from 0.25% to
14 0.75%?

15 (B) Two thousand five hundred electors of any Metro East
16 Mass Transit District may petition the Chief Judge of the
17 Circuit Court, or any judge of that Circuit designated by the
18 Chief Judge, in which that District is located to cause to be
19 submitted to a vote of the electors the question whether the
20 tax rates for the Metro East Mass Transit District Retailers'
21 Occupation Tax, the Metro East Mass Transit District Service
22 Occupation Tax, and the Metro East Mass Transit District Use
23 Tax for the District should be increased from 0.25% to 0.75%.

24 Upon submission of such petition the court shall set a date
25 not less than 10 nor more than 30 days thereafter for a hearing
26 on the sufficiency thereof. Notice of the filing of such

1 petition and of such date shall be given in writing to the
2 District and the County Clerk at least 7 days before the date
3 of such hearing.

4 If such petition is found sufficient, the court shall enter
5 an order to submit that proposition at the next election, in
6 accordance with general election law.

7 The form of the petition shall be in substantially the
8 following form: To the Circuit Court of the County of (name of
9 county):

10 We, the undersigned electors of the (name of transit
11 district), respectfully petition your honor to submit to a
12 vote of the electors of (name of transit district) the
13 following proposition:

14 Shall the tax rates for the Metro East Mass Transit
15 District Retailers' Occupation Tax, the Metro East Mass
16 Transit District Service Occupation Tax, and the Metro East
17 Mass Transit District Use Tax be increased from 0.25% to
18 0.75%?

19	Name	Address, with Street and Number.
20
21

22 (C) The votes shall be recorded as "YES" or "NO". If a
23 majority of all votes cast on the proposition are for the
24 increase in the tax rates, the Metro East Mass Transit District
25 shall begin imposing the increased rates in the District, and
26 the Department of Revenue shall begin collecting the increased

1 amounts, as provided under this Section. An ordinance imposing
2 or discontinuing a tax hereunder or effecting a change in the
3 rate thereof shall be adopted and a certified copy thereof
4 filed with the Department on or before the first day of
5 October, whereupon the Department shall proceed to administer
6 and enforce this Section as of the first day of January next
7 following the adoption and filing, or on or before the first
8 day of April, whereupon the Department shall proceed to
9 administer and enforce this Section as of the first day of July
10 next following the adoption and filing.

11 (D) If the voters have approved a referendum under this
12 subsection, before November 1, 1994, to increase the tax rate
13 under this subsection, the Metro East Mass Transit District
14 Board of Trustees may adopt by a majority vote an ordinance at
15 any time before January 1, 1995 that excludes from the rate
16 increase tangible personal property that is titled or
17 registered with an agency of this State's government. The
18 ordinance excluding titled or registered tangible personal
19 property from the rate increase must be filed with the
20 Department at least 15 days before its effective date. At any
21 time after adopting an ordinance excluding from the rate
22 increase tangible personal property that is titled or
23 registered with an agency of this State's government, the Metro
24 East Mass Transit District Board of Trustees may adopt an
25 ordinance applying the rate increase to that tangible personal
26 property. The ordinance shall be adopted, and a certified copy

1 of that ordinance shall be filed with the Department, on or
2 before October 1, whereupon the Department shall proceed to
3 administer and enforce the rate increase against tangible
4 personal property titled or registered with an agency of this
5 State's government as of the following January 1. After
6 December 31, 1995, any reimposed rate increase in effect under
7 this subsection shall no longer apply to tangible personal
8 property titled or registered with an agency of this State's
9 government. Beginning January 1, 1996, the Board of Trustees of
10 any Metro East Mass Transit District may never reimpose a
11 previously excluded tax rate increase on tangible personal
12 property titled or registered with an agency of this State's
13 government. After July 1, 2004, if the voters have approved a
14 referendum under this subsection to increase the tax rate under
15 this subsection, the Metro East Mass Transit District Board of
16 Trustees may adopt by a majority vote an ordinance that
17 excludes from the rate increase tangible personal property that
18 is titled or registered with an agency of this State's
19 government. The ordinance excluding titled or registered
20 tangible personal property from the rate increase shall be
21 adopted, and a certified copy of that ordinance shall be filed
22 with the Department on or before October 1, whereupon the
23 Department shall administer and enforce this exclusion from the
24 rate increase as of the following January 1, or on or before
25 April 1, whereupon the Department shall administer and enforce
26 this exclusion from the rate increase as of the following July

1 1. The Board of Trustees of any Metro East Mass Transit
2 District may never reimpose a previously excluded tax rate
3 increase on tangible personal property titled or registered
4 with an agency of this State's government.

5 Beginning on July 1, 2008, an ordinance or resolution
6 imposing or discontinuing the tax hereunder or effecting a
7 change in the rate thereof shall either (i) be adopted and a
8 certified copy thereof filed with the Department on or before
9 the first day of January, whereupon the Department shall
10 proceed to administer and enforce this Section as of the first
11 day of July next following the adoption and filing; or (ii) be
12 adopted and a certified copy thereof filed with the Department
13 on or before the first day of July, whereupon the Department
14 shall proceed to administer and enforce this Section as of the
15 first day of January next following the adoption and filing.
16 Beginning on July 1, 2008, notices of local jurisdiction
17 boundary changes shall either (i) be filed with the Department
18 on or before the first day of January, whereupon the Department
19 shall proceed to administer and enforce this Section in regards
20 to such boundary changes as of the first day of July next
21 following such filing; or (ii) be filed with the Department on
22 or before the first day of July, whereupon the Department shall
23 proceed to administer and enforce this Section in regards to
24 such boundary changes as of the first day of January next
25 following the adoption and filing.

26 (d-6) If the Board of Trustees of any Metro East Mass

1 Transit District has imposed a rate increase under subsection
2 (d-5) and filed an ordinance with the Department of Revenue
3 excluding titled property from the higher rate, then that Board
4 may, by ordinance adopted with the concurrence of two-thirds of
5 the then trustees, impose throughout the District a fee. The
6 fee on the excluded property shall not exceed \$20 per retail
7 transaction or an amount equal to the amount of tax excluded,
8 whichever is less, on tangible personal property that is titled
9 or registered with an agency of this State's government.
10 Beginning July 1, 2004, the fee shall apply only to titled
11 property that is subject to either the Metro East Mass Transit
12 District Retailers' Occupation Tax or the Metro East Mass
13 Transit District Service Occupation Tax. No fee shall be
14 imposed or collected under this subsection on the sale of a
15 motor vehicle in this State to a resident of another state if
16 that motor vehicle will not be titled in this State.

17 (d-7) Until June 30, 2004, if a fee has been imposed under
18 subsection (d-6), a fee shall also be imposed upon the
19 privilege of using, in the district, any item of tangible
20 personal property that is titled or registered with any agency
21 of this State's government, in an amount equal to the amount of
22 the fee imposed under subsection (d-6).

23 (d-7.1) Beginning July 1, 2004, any fee imposed by the
24 Board of Trustees of any Metro East Mass Transit District under
25 subsection (d-6) and all civil penalties that may be assessed
26 as an incident of the fees shall be collected and enforced by

1 the State Department of Revenue. Reference to "taxes" in this
2 Section shall be construed to apply to the administration,
3 payment, and remittance of all fees under this Section. For
4 purposes of any fee imposed under subsection (d-6), 4% of the
5 fee, penalty, and interest received by the Department in the
6 first 12 months that the fee is collected and enforced by the
7 Department and 2% of the fee, penalty, and interest following
8 the first 12 months shall be deposited into the Tax Compliance
9 and Administration Fund and shall be used by the Department,
10 subject to appropriation, to cover the costs of the Department.
11 No retailers' discount shall apply to any fee imposed under
12 subsection (d-6).

13 (d-8) No item of titled property shall be subject to both
14 the higher rate approved by referendum, as authorized under
15 subsection (d-5), and any fee imposed under subsection (d-6) or
16 (d-7).

17 (d-9) (Blank).

18 (d-10) (Blank).

19 (e) A certificate of registration issued by the State
20 Department of Revenue to a retailer under the Retailers'
21 Occupation Tax Act or under the Service Occupation Tax Act
22 shall permit the registrant to engage in a business that is
23 taxed under the tax imposed under paragraphs (b), (c) or (d) of
24 this Section and no additional registration shall be required
25 under the tax. A certificate issued under the Use Tax Act or
26 the Service Use Tax Act shall be applicable with regard to any

1 tax imposed under paragraph (c) of this Section.

2 (f) (Blank).

3 (g) Any ordinance imposing or discontinuing any tax under
4 this Section shall be adopted and a certified copy thereof
5 filed with the Department on or before June 1, whereupon the
6 Department of Revenue shall proceed to administer and enforce
7 this Section on behalf of the Metro East Mass Transit District
8 as of September 1 next following such adoption and filing.
9 Beginning January 1, 1992, an ordinance or resolution imposing
10 or discontinuing the tax hereunder shall be adopted and a
11 certified copy thereof filed with the Department on or before
12 the first day of July, whereupon the Department shall proceed
13 to administer and enforce this Section as of the first day of
14 October next following such adoption and filing. Beginning
15 January 1, 1993, except as provided in subsection (d-5) of this
16 Section, an ordinance or resolution imposing or discontinuing
17 the tax hereunder shall be adopted and a certified copy thereof
18 filed with the Department on or before the first day of
19 October, whereupon the Department shall proceed to administer
20 and enforce this Section as of the first day of January next
21 following such adoption and filing, or, beginning January 1,
22 2004, on or before the first day of April, whereupon the
23 Department shall proceed to administer and enforce this Section
24 as of the first day of July next following the adoption and
25 filing. Beginning on July 1, 2008, an ordinance or resolution
26 imposing or discontinuing the tax hereunder or effecting a

1 change in the rate thereof shall either (i) be adopted and a
2 certified copy thereof filed with the Department on or before
3 the first day of January, whereupon the Department shall
4 proceed to administer and enforce this Section as of the first
5 day of July next following the adoption and filing; or (ii) be
6 adopted and a certified copy thereof filed with the Department
7 on or before the first day of July, whereupon the Department
8 shall proceed to administer and enforce this Section as of the
9 first day of January next following the adoption and filing.
10 Beginning on July 1, 2008, notices of local jurisdiction
11 boundary changes shall either (i) be filed with the Department
12 on or before the first day of January, whereupon the Department
13 shall proceed to administer and enforce this Section in regards
14 to such boundary changes as of the first day of July next
15 following such filing; or (ii) be filed with the Department on
16 or before the first day of July, whereupon the Department shall
17 proceed to administer and enforce this Section in regards to
18 such boundary changes as of the first day of January next
19 following the adoption and filing.

20 (h) Except as provided in subsection (d-7.1), the State
21 Department of Revenue shall, upon collecting any taxes as
22 provided in this Section, pay the taxes over to the State
23 Treasurer as trustee for the District. The taxes shall be held
24 in a trust fund outside the State Treasury. On or before the
25 25th day of each calendar month, the State Department of
26 Revenue shall prepare and certify to the Comptroller of the

1 State of Illinois the amount to be paid to the District, which
2 shall be the then balance in the fund, less any amount
3 determined by the Department to be necessary for the payment of
4 refunds. Within 10 days after receipt by the Comptroller of the
5 certification of the amount to be paid to the District, the
6 Comptroller shall cause an order to be drawn for payment for
7 the amount in accordance with the direction in the
8 certification.

9 (Source: P.A. 93-590, eff. 1-1-04; 93-1068, eff. 1-15-05;
10 94-776, eff. 5-19-06; revised 8-3-06.)

11 Section 55. The Regional Transportation Authority Act is
12 amended by changing Section 4.03 as follows:

13 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

14 Sec. 4.03. Taxes.

15 (a) In order to carry out any of the powers or purposes of
16 the Authority, the Board may by ordinance adopted with the
17 concurrence of 9 of the then Directors, impose throughout the
18 metropolitan region any or all of the taxes provided in this
19 Section. Except as otherwise provided in this Act, taxes
20 imposed under this Section and civil penalties imposed incident
21 thereto shall be collected and enforced by the State Department
22 of Revenue. The Department shall have the power to administer
23 and enforce the taxes and to determine all rights for refunds
24 for erroneous payments of the taxes.

1 (b) Prior to and ending on June 30, 2008, the ~~The~~ Board may
2 impose a public transportation tax upon all persons engaged in
3 the metropolitan region in the business of selling at retail
4 motor fuel for operation of motor vehicles upon public
5 highways. The tax shall be at a rate not to exceed 5% of the
6 gross receipts from the sales of motor fuel in the course of
7 the business. As used in this Act, the term "motor fuel" shall
8 have the same meaning as in the Motor Fuel Tax Law. The Board
9 may provide for details of the tax. The provisions of any tax
10 shall conform, as closely as may be practicable, to the
11 provisions of the Municipal Retailers Occupation Tax Act,
12 including without limitation, conformity to penalties with
13 respect to the tax imposed and as to the powers of the State
14 Department of Revenue to promulgate and enforce rules and
15 regulations relating to the administration and enforcement of
16 the provisions of the tax imposed, except that reference in the
17 Act to any municipality shall refer to the Authority and the
18 tax shall be imposed only with regard to receipts from sales of
19 motor fuel in the metropolitan region, at rates as limited by
20 this Section.

21 (c) In connection with the tax imposed under paragraph (b)
22 of this Section the Board prior to and ending on June 30, 2008,
23 may impose a tax upon the privilege of using in the
24 metropolitan region motor fuel for the operation of a motor
25 vehicle upon public highways, the tax to be at a rate not in
26 excess of the rate of tax imposed under paragraph (b) of this

1 Section. The Board may provide for details of the tax.

2 (d) The Board may impose a motor vehicle parking tax upon
3 the privilege of parking motor vehicles at off-street parking
4 facilities in the metropolitan region at which a fee is
5 charged, and may provide for reasonable classifications in and
6 exemptions to the tax, for administration and enforcement
7 thereof and for civil penalties and refunds thereunder and may
8 provide criminal penalties thereunder, the maximum penalties
9 not to exceed the maximum criminal penalties provided in the
10 Retailers' Occupation Tax Act. The Authority may collect and
11 enforce the tax itself or by contract with any unit of local
12 government. The State Department of Revenue shall have no
13 responsibility for the collection and enforcement unless the
14 Department agrees with the Authority to undertake the
15 collection and enforcement. As used in this paragraph, the term
16 "parking facility" means a parking area or structure having
17 parking spaces for more than 2 vehicles at which motor vehicles
18 are permitted to park in return for an hourly, daily, or other
19 periodic fee, whether publicly or privately owned, but does not
20 include parking spaces on a public street, the use of which is
21 regulated by parking meters.

22 (e) The Board may impose a Regional Transportation
23 Authority Retailers' Occupation Tax upon all persons engaged in
24 the business of selling tangible personal property at retail in
25 the metropolitan region. Through June 30, 2008, in ~~in~~ Cook
26 County the tax rate shall be 1% of the gross receipts from

1 sales of food for human consumption that is to be consumed off
2 the premises where it is sold (other than alcoholic beverages,
3 soft drinks and food that has been prepared for immediate
4 consumption) and prescription and nonprescription medicines,
5 drugs, medical appliances and insulin, urine testing
6 materials, syringes and needles used by diabetics, and 3/4% of
7 the gross receipts from other taxable sales made in the course
8 of that business. Beginning July 1, 2008 in Cook County the tax
9 rate shall be 1% of the gross receipts from taxable sales made
10 in the course of that business. In DuPage, Kane, Lake, McHenry,
11 and Will Counties, the tax rate shall be 1/4% of the gross
12 receipts from all taxable sales made in the course of that
13 business.

14 In order for the State to become a member of the
15 Streamlined Sales and Use Tax Agreement and in recognition of
16 the rapidly expanding technologies by which prewritten
17 computer software is transferred, it is the intent of the
18 General Assembly that the tax imposed under this subsection be
19 imposed on the same base as the Retailers' Occupation Tax Act
20 and that the tax on prewritten computer software be applied
21 regardless of the manner in which the prewritten computer
22 software is transferred.

23 If, on the effective date of this amendatory Act of the
24 95th General Assembly, a unit of local government has imposed a
25 tax under this subsection by ordinance or resolution, or if,
26 after the effective date of this amendatory Act of the 95th

1 General Assembly, a unit of local government imposes a tax
2 under this subsection by ordinance or resolution, the tax
3 imposed by that ordinance or resolution includes transfers of
4 prewritten computer software and, on and after July 1, 2008,
5 all items subject to tax under the Retailers' Occupation Tax
6 Act, including but not limited to food and food ingredients for
7 human consumption, prescription drugs, and over the counter
8 drugs.

9 The tax imposed under this Section and all civil penalties
10 that may be assessed as an incident thereof shall be collected
11 and enforced by the State Department of Revenue. The Department
12 shall have full power to administer and enforce this Section;
13 to collect all taxes and penalties so collected in the manner
14 hereinafter provided; and to determine all rights to credit
15 memoranda arising on account of the erroneous payment of tax or
16 penalty hereunder. In the administration of, and compliance
17 with this Section, the Department and persons who are subject
18 to this Section shall have the same rights, remedies,
19 privileges, immunities, powers and duties, and be subject to
20 the same conditions, restrictions, limitations, penalties,
21 exclusions, exemptions and definitions of terms, and employ the
22 same modes of procedure, as are prescribed in Sections 1, 1a,
23 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all
24 provisions therein other than the State rate of tax), 2c, 3
25 (except as to the disposition of taxes and penalties
26 collected), 3.5, 3.6, 3.8, 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g,

1 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of
2 the Retailers' Occupation Tax Act and Section 3-7 of the
3 Uniform Penalty and Interest Act, as fully as if those
4 provisions were set forth herein.

5 Persons subject to any tax imposed under the authority
6 granted in this Section may reimburse themselves for their
7 seller's tax liability hereunder by separately stating the tax
8 as an additional charge, which charge may be stated in
9 combination in a single amount with State taxes that sellers
10 are required to collect under the Use Tax Act, and, through
11 June 30, 2008, the sellers may collect such tax under any
12 bracket schedules the Department may prescribe.

13 Whenever the Department determines that a refund should be
14 made under this Section to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the warrant to be drawn for the
17 amount specified, and to the person named, in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of the Regional Transportation Authority tax fund
20 established under paragraph (n) of this Section.

21 If a tax is imposed under this subsection (e), a tax shall
22 also be imposed under subsections (f) and (g) of this Section.

23 On and before June 30, 2008, for ~~For~~ the purpose of
24 determining whether a tax authorized under this Section is
25 applicable, a retail sale by a producer of coal or other
26 mineral mined in Illinois, is a sale at retail at the place

1 where the coal or other mineral mined in Illinois is extracted
2 from the earth. This paragraph does not apply to coal or other
3 mineral when it is delivered or shipped by the seller to the
4 purchaser at a point outside Illinois so that the sale is
5 exempt under the Federal Constitution as a sale in interstate
6 or foreign commerce.

7 No tax shall be imposed or collected under this subsection
8 on the sale of a motor vehicle in this State to a resident of
9 another state if that motor vehicle will not be titled in this
10 State.

11 Nothing in this Section shall be construed to authorize the
12 Regional Transportation Authority to impose a tax upon the
13 privilege of engaging in any business that under the
14 Constitution of the United States may not be made the subject
15 of taxation by this State.

16 (f) If a tax has been imposed under paragraph (e), a
17 Regional Transportation Authority Service Occupation Tax shall
18 also be imposed upon all persons engaged, in the metropolitan
19 region in the business of making sales of service, who as an
20 incident to making the sales of service, transfer tangible
21 personal property within the metropolitan region, either in the
22 form of tangible personal property or in the form of real
23 estate as an incident to a sale of service. In Cook County, the
24 tax rate shall be through June 30, 2008,: (1) 1% of the
25 serviceman's cost price of food prepared for immediate
26 consumption and transferred incident to a sale of service

1 subject to the service occupation tax by an entity licensed
2 under the Hospital Licensing Act or the Nursing Home Care Act
3 that is located in the metropolitan region; (2) 1% of the
4 selling price of food for human consumption that is to be
5 consumed off the premises where it is sold (other than
6 alcoholic beverages, soft drinks and food that has been
7 prepared for immediate consumption) and prescription and
8 nonprescription medicines, drugs, medical appliances and
9 insulin, urine testing materials, syringes and needles used by
10 diabetics; and (3) 3/4% of the selling price from other taxable
11 sales of tangible personal property transferred. Beginning
12 July 1, 2008, in Cook County, the tax rate shall be 1% of the
13 selling price from all taxable sales of tangible personal
14 property. In DuPage, Kane, Lake, McHenry and Will Counties the
15 rate shall be 1/4% of the selling price of all tangible
16 personal property transferred.

17 In order for the State to become a member of the
18 Streamlined Sales and Use Tax Agreement, it is the intent of
19 the General Assembly that the tax imposed under this subsection
20 be imposed on the same base as the Service Occupation Tax Act.

21 If, on the effective date of this amendatory Act of the
22 95th General Assembly, a unit of local government has imposed a
23 tax under this subsection by ordinance or resolution, or if,
24 after the effective date of this amendatory Act of the 95th
25 General Assembly, a unit of local government imposes a tax
26 under this subsection by ordinance or resolution, the tax

1 imposed by that ordinance or resolution includes, on and after
2 July 1, 2008, all items subject to tax under the Service
3 Occupation Tax Act, including food and food ingredients for
4 human consumption, prescription drugs, and over the counter
5 drugs.

6 The tax imposed under this paragraph and all civil
7 penalties that may be assessed as an incident thereof shall be
8 collected and enforced by the State Department of Revenue. The
9 Department shall have full power to administer and enforce this
10 paragraph; to collect all taxes and penalties due hereunder; to
11 dispose of taxes and penalties collected in the manner
12 hereinafter provided; and to determine all rights to credit
13 memoranda arising on account of the erroneous payment of tax or
14 penalty hereunder. In the administration of and compliance with
15 this paragraph, the Department and persons who are subject to
16 this paragraph shall have the same rights, remedies,
17 privileges, immunities, powers and duties, and be subject to
18 the same conditions, restrictions, limitations, penalties,
19 exclusions, exemptions and definitions of terms, and employ the
20 same modes of procedure, as are prescribed in Sections 1a-1, 2,
21 2a, 3 through 3-50 (in respect to all provisions therein other
22 than the State rate of tax), 4 (except that the reference to
23 the State shall be to the Authority), 5, 7, 8 (except that the
24 jurisdiction to which the tax shall be a debt to the extent
25 indicated in that Section 8 shall be the Authority), 9 (except
26 as to the disposition of taxes and penalties collected, and

1 except that the returned merchandise credit for this tax may
2 not be taken against any State tax), 10, 11, 12 (except the
3 reference therein to Section 2b of the Retailers' Occupation
4 Tax Act), 13 (except that any reference to the State shall mean
5 the Authority), the first paragraph of Section 15, 16, 17, 18,
6 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
7 the Uniform Penalty and Interest Act, as fully as if those
8 provisions were set forth herein.

9 Persons subject to any tax imposed under the authority
10 granted in this paragraph may reimburse themselves for their
11 serviceman's tax liability hereunder by separately stating the
12 tax as an additional charge, that charge may be stated in
13 combination in a single amount with State tax that servicemen
14 are authorized to collect under the Service Use Tax Act, and,
15 through June 30, 2008, the sellers may collect such tax under
16 any bracket schedules the Department may prescribe.

17 Whenever the Department determines that a refund should be
18 made under this paragraph to a claimant instead of issuing a
19 credit memorandum, the Department shall notify the State
20 Comptroller, who shall cause the warrant to be drawn for the
21 amount specified, and to the person named in the notification
22 from the Department. The refund shall be paid by the State
23 Treasurer out of the Regional Transportation Authority tax fund
24 established under paragraph (n) of this Section.

25 Nothing in this paragraph shall be construed to authorize
26 the Authority to impose a tax upon the privilege of engaging in

1 any business that under the Constitution of the United States
2 may not be made the subject of taxation by the State.

3 (g) If a tax has been imposed under paragraph (e), a tax
4 shall also be imposed upon the privilege of using in the
5 metropolitan region, any item of tangible personal property
6 that is purchased outside the metropolitan region at retail
7 from a retailer, and that is titled or registered with an
8 agency of this State's government. In Cook County the tax rate
9 shall be 3/4% of the selling price of the tangible personal
10 property, as "selling price" is defined in the Use Tax Act. In
11 DuPage, Kane, Lake, McHenry and Will counties the tax rate
12 shall be 1/4% of the selling price of the tangible personal
13 property, as "selling price" is defined in the Use Tax Act. The
14 tax shall be collected from persons whose Illinois address for
15 titling or registration purposes is given as being in the
16 metropolitan region. The tax shall be collected by the
17 Department of Revenue for the Regional Transportation
18 Authority. The tax must be paid to the State, or an exemption
19 determination must be obtained from the Department of Revenue,
20 before the title or certificate of registration for the
21 property may be issued. The tax or proof of exemption may be
22 transmitted to the Department by way of the State agency with
23 which, or the State officer with whom, the tangible personal
24 property must be titled or registered if the Department and the
25 State agency or State officer determine that this procedure
26 will expedite the processing of applications for title or

1 registration.

2 The Department shall have full power to administer and
3 enforce this paragraph; to collect all taxes, penalties and
4 interest due hereunder; to dispose of taxes, penalties and
5 interest collected in the manner hereinafter provided; and to
6 determine all rights to credit memoranda or refunds arising on
7 account of the erroneous payment of tax, penalty or interest
8 hereunder. In the administration of and compliance with this
9 paragraph, the Department and persons who are subject to this
10 paragraph shall have the same rights, remedies, privileges,
11 immunities, powers and duties, and be subject to the same
12 conditions, restrictions, limitations, penalties, exclusions,
13 exemptions and definitions of terms and employ the same modes
14 of procedure, as are prescribed in Sections 2 (except the
15 definition of "retailer maintaining a place of business in this
16 State"), 3 through 3-80 (except provisions pertaining to the
17 State rate of tax, and except provisions concerning collection
18 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
19 19 (except the portions pertaining to claims by retailers and
20 except the last paragraph concerning refunds), 20, 21, ~~and 22,~~
21 and 23 of the Use Tax Act, and are not inconsistent with this
22 paragraph, as fully as if those provisions were set forth
23 herein.

24 Whenever the Department determines that a refund should be
25 made under this paragraph to a claimant instead of issuing a
26 credit memorandum, the Department shall notify the State

1 Comptroller, who shall cause the order to be drawn for the
2 amount specified, and to the person named in the notification
3 from the Department. The refund shall be paid by the State
4 Treasurer out of the Regional Transportation Authority tax fund
5 established under paragraph (n) of this Section.

6 (h) The Authority may impose a replacement vehicle tax of
7 \$50 on any passenger car as defined in Section 1-157 of the
8 Illinois Vehicle Code purchased within the metropolitan region
9 by or on behalf of an insurance company to replace a passenger
10 car of an insured person in settlement of a total loss claim.
11 The tax imposed may not become effective before the first day
12 of the month following the passage of the ordinance imposing
13 the tax and receipt of a certified copy of the ordinance by the
14 Department of Revenue. The Department of Revenue shall collect
15 the tax for the Authority in accordance with Sections 3-2002
16 and 3-2003 of the Illinois Vehicle Code.

17 The Department shall immediately pay over to the State
18 Treasurer, ex officio, as trustee, all taxes collected
19 hereunder. On or before the 25th day of each calendar month,
20 the Department shall prepare and certify to the Comptroller the
21 disbursement of stated sums of money to the Authority. The
22 amount to be paid to the Authority shall be the amount
23 collected hereunder during the second preceding calendar month
24 by the Department, less any amount determined by the Department
25 to be necessary for the payment of refunds. Within 10 days
26 after receipt by the Comptroller of the disbursement

1 certification to the Authority provided for in this Section to
2 be given to the Comptroller by the Department, the Comptroller
3 shall cause the orders to be drawn for that amount in
4 accordance with the directions contained in the certification.

5 (i) The Board may not impose any other taxes except as it
6 may from time to time be authorized by law to impose.

7 (j) A certificate of registration issued by the State
8 Department of Revenue to a retailer under the Retailers'
9 Occupation Tax Act or under the Service Occupation Tax Act
10 shall permit the registrant to engage in a business that is
11 taxed under the tax imposed under paragraphs (b), (e), (f) or
12 (g) of this Section and no additional registration shall be
13 required under the tax. A certificate issued under the Use Tax
14 Act or the Service Use Tax Act shall be applicable with regard
15 to any tax imposed under paragraph (c) of this Section.

16 (k) The provisions of any tax imposed under paragraph (c)
17 of this Section shall conform as closely as may be practicable
18 to the provisions of the Use Tax Act, including without
19 limitation conformity as to penalties with respect to the tax
20 imposed and as to the powers of the State Department of Revenue
21 to promulgate and enforce rules and regulations relating to the
22 administration and enforcement of the provisions of the tax
23 imposed. The taxes shall be imposed only on use within the
24 metropolitan region and at rates as provided in the paragraph.

25 (l) The Board in imposing any tax as provided in paragraphs
26 (b) and (c) of this Section, shall, after seeking the advice of

1 the State Department of Revenue, provide means for retailers,
2 users or purchasers of motor fuel for purposes other than those
3 with regard to which the taxes may be imposed as provided in
4 those paragraphs to receive refunds of taxes improperly paid,
5 which provisions may be at variance with the refund provisions
6 as applicable under the Municipal Retailers Occupation Tax Act.
7 The State Department of Revenue may provide for certificates of
8 registration for users or purchasers of motor fuel for purposes
9 other than those with regard to which taxes may be imposed as
10 provided in paragraphs (b) and (c) of this Section to
11 facilitate the reporting and nontaxability of the exempt sales
12 or uses.

13 (m) Any ordinance imposing or discontinuing any tax under
14 this Section shall be adopted and a certified copy thereof
15 filed with the Department on or before June 1, whereupon the
16 Department of Revenue shall proceed to administer and enforce
17 this Section on behalf of the Regional Transportation Authority
18 as of September 1 next following such adoption and filing.
19 Beginning January 1, 1992, an ordinance or resolution imposing
20 or discontinuing the tax hereunder shall be adopted and a
21 certified copy thereof filed with the Department on or before
22 the first day of July, whereupon the Department shall proceed
23 to administer and enforce this Section as of the first day of
24 October next following such adoption and filing. Beginning
25 January 1, 1993, an ordinance or resolution imposing or
26 discontinuing the tax hereunder shall be adopted and a

1 certified copy thereof filed with the Department on or before
2 the first day of October, whereupon the Department shall
3 proceed to administer and enforce this Section as of the first
4 day of January next following such adoption and filing. Except
5 for subsection (d) of this Section, beginning on July 1, 2008,
6 an ordinance or resolution imposing or discontinuing the tax
7 hereunder or effecting a change in the rate thereof shall
8 either (i) be adopted and a certified copy thereof filed with
9 the Department on or before the first day of January, whereupon
10 the Department shall proceed to administer and enforce this
11 Section as of the first day of July next following the adoption
12 and filing; or (ii) be adopted and a certified copy thereof
13 filed with the Department on or before the first day of July,
14 whereupon the Department shall proceed to administer and
15 enforce this Section as of the first day of January next
16 following the adoption and filing. Beginning on July 1, 2008,
17 notices of local jurisdiction boundary changes shall either (i)
18 be filed with the Department on or before the first day of
19 January, whereupon the Department shall proceed to administer
20 and enforce this Section in regards to such boundary changes as
21 of the first day of July next following such filing; or (ii) be
22 filed with the Department on or before the first day of July,
23 whereupon the Department shall proceed to administer and
24 enforce this Section in regards to such boundary changes as of
25 the first day of January next following the adoption and
26 filing.

1 (n) The State Department of Revenue shall, upon collecting
2 any taxes as provided in this Section, pay the taxes over to
3 the State Treasurer as trustee for the Authority. The taxes
4 shall be held in a trust fund outside the State Treasury. On or
5 before the 25th day of each calendar month, the State
6 Department of Revenue shall prepare and certify to the
7 Comptroller of the State of Illinois the amount to be paid to
8 the Authority, which shall be the then balance in the fund,
9 less any amount determined by the Department to be necessary
10 for the payment of refunds. The State Department of Revenue
11 shall also certify to the Authority the amount of taxes
12 collected in each County other than Cook County in the
13 metropolitan region less the amount necessary for the payment
14 of refunds to taxpayers in the County. With regard to the
15 County of Cook, the certification shall specify the amount of
16 taxes collected within the City of Chicago less the amount
17 necessary for the payment of refunds to taxpayers in the City
18 of Chicago and the amount collected in that portion of Cook
19 County outside of Chicago less the amount necessary for the
20 payment of refunds to taxpayers in that portion of Cook County
21 outside of Chicago. Within 10 days after receipt by the
22 Comptroller of the certification of the amount to be paid to
23 the Authority, the Comptroller shall cause an order to be drawn
24 for the payment for the amount in accordance with the direction
25 in the certification.

26 In addition to the disbursement required by the preceding

1 paragraph, an allocation shall be made in July 1991 and each
2 year thereafter to the Regional Transportation Authority. The
3 allocation shall be made in an amount equal to the average
4 monthly distribution during the preceding calendar year
5 (excluding the 2 months of lowest receipts) and the allocation
6 shall include the amount of average monthly distribution from
7 the Regional Transportation Authority Occupation and Use Tax
8 Replacement Fund. The distribution made in July 1992 and each
9 year thereafter under this paragraph and the preceding
10 paragraph shall be reduced by the amount allocated and
11 disbursed under this paragraph in the preceding calendar year.
12 The Department of Revenue shall prepare and certify to the
13 Comptroller for disbursement the allocations made in
14 accordance with this paragraph.

15 (o) Failure to adopt a budget ordinance or otherwise to
16 comply with Section 4.01 of this Act or to adopt a Five-year
17 Program or otherwise to comply with paragraph (b) of Section
18 2.01 of this Act shall not affect the validity of any tax
19 imposed by the Authority otherwise in conformity with law.

20 (p) At no time shall a public transportation tax or motor
21 vehicle parking tax authorized under paragraphs (b), (c) and
22 (d) of this Section be in effect at the same time as any
23 retailers' occupation, use or service occupation tax
24 authorized under paragraphs (e), (f) and (g) of this Section is
25 in effect.

26 Any taxes imposed under the authority provided in

1 paragraphs (b), (c) and (d) shall remain in effect only until
2 the time as any tax authorized by paragraphs (e), (f) or (g) of
3 this Section are imposed and becomes effective. Once any tax
4 authorized by paragraphs (e), (f) or (g) is imposed the Board
5 may not reimpose taxes as authorized in paragraphs (b), (c) and
6 (d) of the Section unless any tax authorized by paragraphs (e),
7 (f) or (g) of this Section becomes ineffective by means other
8 than an ordinance of the Board.

9 (q) Any existing rights, remedies and obligations
10 (including enforcement by the Regional Transportation
11 Authority) arising under any tax imposed under paragraphs (b),
12 (c) or (d) of this Section shall not be affected by the
13 imposition of a tax under paragraphs (e), (f) or (g) of this
14 Section.

15 (Source: P.A. 92-221, eff. 8-2-01; 92-651, eff. 7-11-02;
16 93-1068, eff. 1-15-05.)

17 Section 60. The Water Commission Act of 1985 is amended by
18 changing Section 4 as follows:

19 (70 ILCS 3720/4) (from Ch. 111 2/3, par. 254)

20 Sec. 4. (a) The board of commissioners of any county water
21 commission may, by ordinance, impose throughout the territory
22 of the commission any or all of the taxes provided in this
23 Section for its corporate purposes. However, no county water
24 commission may impose any such tax unless the commission

1 certifies the proposition of imposing the tax to the proper
 2 election officials, who shall submit the proposition to the
 3 voters residing in the territory at an election in accordance
 4 with the general election law, and the proposition has been
 5 approved by a majority of those voting on the proposition.

6 The proposition shall be in the form provided in Section 5
 7 or shall be substantially in the following form:

8 -----

9	Shall the (insert corporate	
10	name of county water commission)	YES
11	impose (state type of tax or	-----
12	taxes to be imposed) at the	NO
13	rate of 1/4%?	

14 -----

15 Taxes imposed under this Section and civil penalties
 16 imposed incident thereto shall be collected and enforced by the
 17 State Department of Revenue. The Department shall have the
 18 power to administer and enforce the taxes and to determine all
 19 rights for refunds for erroneous payments of the taxes.

20 (b) The board of commissioners may impose a County Water
 21 Commission Retailers' Occupation Tax upon all persons engaged
 22 in the business of selling tangible personal property at retail
 23 in the territory of the commission at a rate of 1/4% of the
 24 gross receipts from the sales made in the course of such
 25 business within the territory.

26 In order for the State to become a member of the

1 Streamlined Sales and Use Tax Agreement and in recognition of
2 the rapidly expanding technologies by which prewritten
3 computer software is transferred, it is the intent of the
4 General Assembly that the tax imposed under this subsection be
5 imposed on the same base as the Retailers' Occupation Tax Act
6 and that the tax on prewritten computer software be applied
7 regardless of the manner in which the prewritten computer
8 software is transferred.

9 If, on the effective date of this amendatory Act of the
10 95th General Assembly, a unit of local government has imposed a
11 tax under this subsection by ordinance or resolution, or if,
12 after the effective date of this amendatory Act of the 95th
13 General Assembly, a unit of local government imposes a tax
14 under this subsection by ordinance or resolution, the tax
15 imposed by that ordinance or resolution includes transfers of
16 prewritten computer software and, on and after July 1, 2008,
17 all items subject to tax under the Retailers' Occupation Tax
18 Act, including but not limited to food and food ingredients for
19 human consumption, prescription drugs, and over the counter
20 drugs.

21 The tax imposed under this paragraph and all civil
22 penalties that may be assessed as an incident thereof shall be
23 collected and enforced by the State Department of Revenue. The
24 Department shall have full power to administer and enforce this
25 paragraph; to collect all taxes and penalties due hereunder; to
26 dispose of taxes and penalties so collected in the manner

1 hereinafter provided; and to determine all rights to credit
2 memoranda arising on account of the erroneous payment of tax or
3 penalty hereunder. In the administration of, and compliance
4 with, this paragraph, the Department and persons who are
5 subject to this paragraph shall have the same rights, remedies,
6 privileges, immunities, powers and duties, and be subject to
7 the same conditions, restrictions, limitations, penalties,
8 exclusions, exemptions and definitions of terms, and employ the
9 same modes of procedure, as are prescribed in Sections 1, 1a,
10 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all
11 provisions therein other than the State rate of tax except that
12 through June 30, 2008, food for human consumption that is to be
13 consumed off the premises where it is sold (other than
14 alcoholic beverages, soft drinks, and food that has been
15 prepared for immediate consumption) and prescription and
16 nonprescription medicine, drugs, medical appliances and
17 insulin, urine testing materials, syringes, and needles used by
18 diabetics, for human use, shall not be subject to tax
19 hereunder), 2c, 3 (except as to the disposition of taxes and
20 penalties collected) 3.5, 3.6, 3.8, 4, 5, 5a, 5b, 5c, 5d, 5e,
21 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12
22 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of
23 the Uniform Penalty and Interest Act, as fully as if those
24 provisions were set forth herein.

25 Persons subject to any tax imposed under the authority
26 granted in this paragraph may reimburse themselves for their

1 seller's tax liability hereunder by separately stating the tax
2 as an additional charge, which charge may be stated in
3 combination, in a single amount, with State taxes that sellers
4 are required to collect under the Use Tax Act and under
5 subsection (e) of Section 4.03 of the Regional Transportation
6 Authority Act, in accordance with such bracket schedules as the
7 Department may prescribe.

8 Whenever the Department determines that a refund should be
9 made under this paragraph to a claimant instead of issuing a
10 credit memorandum, the Department shall notify the State
11 Comptroller, who shall cause the warrant to be drawn for the
12 amount specified, and to the person named, in the notification
13 from the Department. The refund shall be paid by the State
14 Treasurer out of a county water commission tax fund established
15 under paragraph (g) of this Section.

16 For the purpose of determining whether a tax authorized
17 under this paragraph is applicable, a retail sale by a producer
18 of coal or other mineral mined in Illinois is a sale at retail
19 at the place where the coal or other mineral mined in Illinois
20 is extracted from the earth. This paragraph does not apply to
21 coal or other mineral when it is delivered or shipped by the
22 seller to the purchaser at a point outside Illinois so that the
23 sale is exempt under the Federal Constitution as a sale in
24 interstate or foreign commerce.

25 If a tax is imposed under this subsection (b) a tax shall
26 also be imposed under subsections (c) and (d) of this Section.

1 No tax shall be imposed or collected under this subsection
2 on the sale of a motor vehicle in this State to a resident of
3 another state if that motor vehicle will not be titled in this
4 State.

5 Nothing in this paragraph shall be construed to authorize a
6 county water commission to impose a tax upon the privilege of
7 engaging in any business which under the Constitution of the
8 United States may not be made the subject of taxation by this
9 State.

10 (c) If a tax has been imposed under subsection (b), a
11 County Water Commission Service Occupation Tax shall also be
12 imposed upon all persons engaged, in the territory of the
13 commission, in the business of making sales of service, who, as
14 an incident to making the sales of service, transfer tangible
15 personal property within the territory. The tax rate shall be
16 1/4% of the selling price of tangible personal property so
17 transferred within the territory.

18 In order for the State to become a member of the
19 Streamlined Sales and Use Tax Agreement, it is the intent of
20 the General Assembly that the tax imposed under this subsection
21 be imposed on the same base as the Service Occupation Tax Act.

22 If, on the effective date of this amendatory Act of the
23 95th General Assembly, a unit of local government has imposed a
24 tax under this subsection by ordinance or resolution, or if,
25 after the effective date of this amendatory Act of the 95th
26 General Assembly, a unit of local government imposes a tax

1 under this subsection by ordinance or resolution, the tax
2 imposed by that ordinance or resolution includes, on and after
3 July 1, 2008, all items subject to tax under the Service
4 Occupation Tax Act, including food and food ingredients for
5 human consumption, prescription drugs, and over the counter
6 drugs.

7 The tax imposed under this paragraph and all civil
8 penalties that may be assessed as an incident thereof shall be
9 collected and enforced by the State Department of Revenue. The
10 Department shall have full power to administer and enforce this
11 paragraph; to collect all taxes and penalties due hereunder; to
12 dispose of taxes and penalties so collected in the manner
13 hereinafter provided; and to determine all rights to credit
14 memoranda arising on account of the erroneous payment of tax or
15 penalty hereunder. In the administration of, and compliance
16 with, this paragraph, the Department and persons who are
17 subject to this paragraph shall have the same rights, remedies,
18 privileges, immunities, powers and duties, and be subject to
19 the same conditions, restrictions, limitations, penalties,
20 exclusions, exemptions and definitions of terms, and employ the
21 same modes of procedure, as are prescribed in Sections 1a-1, 2
22 (except that the reference to State in the definition of
23 supplier maintaining a place of business in this State shall
24 mean the territory of the commission), 2a, 3 through 3-50 (in
25 respect to all provisions therein other than the State rate of
26 tax except that through June 30, 2008 food for human

1 consumption that is to be consumed off the premises where it is
2 sold (other than alcoholic beverages, soft drinks, and food
3 that has been prepared for immediate consumption) and
4 prescription and nonprescription medicines, drugs, medical
5 appliances and insulin, urine testing materials, syringes, and
6 needles used by diabetics, for human use, shall not be subject
7 to tax hereunder), 4 (except that the reference to the State
8 shall be to the territory of the commission), 5, 7, 8 (except
9 that the jurisdiction to which the tax shall be a debt to the
10 extent indicated in that Section 8 shall be the commission), 9
11 (except as to the disposition of taxes and penalties collected
12 and except that the returned merchandise credit for this tax
13 may not be taken against any State tax), 10, 11, 12 (except the
14 reference therein to Section 2b of the Retailers' Occupation
15 Tax Act), 13 (except that any reference to the State shall mean
16 the territory of the commission), the first paragraph of
17 Section 15, 15.5, 16, 17, 18, 19 and 20 of the Service
18 Occupation Tax Act as fully as if those provisions were set
19 forth herein.

20 Persons subject to any tax imposed under the authority
21 granted in this paragraph may reimburse themselves for their
22 serviceman's tax liability hereunder by separately stating the
23 tax as an additional charge, which charge may be stated in
24 combination, in a single amount, with State tax that servicemen
25 are authorized to collect under the Service Use Tax Act, and
26 any tax for which servicemen may be liable under subsection (f)

1 of Sec. 4.03 of the Regional Transportation Authority Act, in
2 accordance with such bracket schedules as the Department may
3 prescribe.

4 Whenever the Department determines that a refund should be
5 made under this paragraph to a claimant instead of issuing a
6 credit memorandum, the Department shall notify the State
7 Comptroller, who shall cause the warrant to be drawn for the
8 amount specified, and to the person named, in the notification
9 from the Department. The refund shall be paid by the State
10 Treasurer out of a county water commission tax fund established
11 under paragraph (g) of this Section.

12 Nothing in this paragraph shall be construed to authorize a
13 county water commission to impose a tax upon the privilege of
14 engaging in any business which under the Constitution of the
15 United States may not be made the subject of taxation by the
16 State.

17 (d) If a tax has been imposed under subsection (b), a tax
18 shall also imposed upon the privilege of using, in the
19 territory of the commission, any item of tangible personal
20 property that is purchased outside the territory at retail from
21 a retailer, and that is titled or registered with an agency of
22 this State's government, at a rate of 1/4% of the selling price
23 of the tangible personal property within the territory, as
24 "selling price" is defined in the Use Tax Act. The tax shall be
25 collected from persons whose Illinois address for titling or
26 registration purposes is given as being in the territory. The

1 tax shall be collected by the Department of Revenue for a
2 county water commission. The tax must be paid to the State, or
3 an exemption determination must be obtained from the Department
4 of Revenue, before the title or certificate of registration for
5 the property may be issued. The tax or proof of exemption may
6 be transmitted to the Department by way of the State agency
7 with which, or the State officer with whom, the tangible
8 personal property must be titled or registered if the
9 Department and the State agency or State officer determine that
10 this procedure will expedite the processing of applications for
11 title or registration.

12 The Department shall have full power to administer and
13 enforce this paragraph; to collect all taxes, penalties and
14 interest due hereunder; to dispose of taxes, penalties and
15 interest so collected in the manner hereinafter provided; and
16 to determine all rights to credit memoranda or refunds arising
17 on account of the erroneous payment of tax, penalty or interest
18 hereunder. In the administration of, and compliance with this
19 paragraph, the Department and persons who are subject to this
20 paragraph shall have the same rights, remedies, privileges,
21 immunities, powers and duties, and be subject to the same
22 conditions, restrictions, limitations, penalties, exclusions,
23 exemptions and definitions of terms and employ the same modes
24 of procedure, as are prescribed in Sections 2 (except the
25 definition of "retailer maintaining a place of business in this
26 State"), 3 through 3-80 (except provisions pertaining to the

1 State rate of tax, and except provisions concerning collection
2 or refunding of the tax by retailers, ~~and except that food for~~
3 ~~human consumption that is to be consumed off the premises where~~
4 ~~it is sold (other than alcoholic beverages, soft drinks, and~~
5 ~~food that has been prepared for immediate consumption) and~~
6 ~~prescription and nonprescription medicines, drugs, medical~~
7 ~~appliances and insulin, urine testing materials, syringes, and~~
8 ~~needles used by diabetics, for human use, shall not be subject~~
9 ~~to tax hereunder), 4, 11, 12, 12a, 14, 15, 19 (except the~~
10 portions pertaining to claims by retailers and except the last
11 paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act
12 and Section 3-7 of the Uniform Penalty and Interest Act that
13 are not inconsistent with this paragraph, as fully as if those
14 provisions were set forth herein.

15 Whenever the Department determines that a refund should be
16 made under this paragraph to a claimant instead of issuing a
17 credit memorandum, the Department shall notify the State
18 Comptroller, who shall cause the order to be drawn for the
19 amount specified, and to the person named, in the notification
20 from the Department. The refund shall be paid by the State
21 Treasurer out of a county water commission tax fund established
22 under paragraph (g) of this Section.

23 (e) A certificate of registration issued by the State
24 Department of Revenue to a retailer under the Retailers'
25 Occupation Tax Act or under the Service Occupation Tax Act
26 shall permit the registrant to engage in a business that is

1 taxed under the tax imposed under paragraphs (b), (c) or (d) of
2 this Section and no additional registration shall be required
3 under the tax. A certificate issued under the Use Tax Act or
4 the Service Use Tax Act shall be applicable with regard to any
5 tax imposed under paragraph (c) of this Section.

6 (f) Any ordinance imposing or discontinuing any tax under
7 this Section shall be adopted and a certified copy thereof
8 filed with the Department on or before June 1, whereupon the
9 Department of Revenue shall proceed to administer and enforce
10 this Section on behalf of the county water commission as of
11 September 1 next following the adoption and filing. Beginning
12 January 1, 1992, an ordinance or resolution imposing or
13 discontinuing the tax hereunder shall be adopted and a
14 certified copy thereof filed with the Department on or before
15 the first day of July, whereupon the Department shall proceed
16 to administer and enforce this Section as of the first day of
17 October next following such adoption and filing. Beginning
18 January 1, 1993, an ordinance or resolution imposing or
19 discontinuing the tax hereunder shall be adopted and a
20 certified copy thereof filed with the Department on or before
21 the first day of October, whereupon the Department shall
22 proceed to administer and enforce this Section as of the first
23 day of January next following such adoption and filing.
24 Beginning on July 1, 2008, an ordinance or resolution imposing
25 or discontinuing the tax hereunder or effecting a change in the
26 rate thereof shall either (i) be adopted and a certified copy

1 thereof filed with the Department on or before the first day of
2 January, whereupon the Department shall proceed to administer
3 and enforce this Section as of the first day of July next
4 following the adoption and filing; or (ii) be adopted and a
5 certified copy thereof filed with the Department on or before
6 the first day of July, whereupon the Department shall proceed
7 to administer and enforce this Section as of the first day of
8 January next following the adoption and filing. Beginning on
9 July 1, 2008, notices of local jurisdiction boundary changes
10 shall either (i) be filed with the Department on or before the
11 first day of January, whereupon the Department shall proceed to
12 administer and enforce this Section in regards to such boundary
13 changes as of the first day of July next following such filing;
14 or (ii) be filed with the Department on or before the first day
15 of July, whereupon the Department shall proceed to administer
16 and enforce this Section in regards to such boundary changes as
17 of the first day of January next following the adoption and
18 filing.

19 (g) The State Department of Revenue shall, upon collecting
20 any taxes as provided in this Section, pay the taxes over to
21 the State Treasurer as trustee for the commission. The taxes
22 shall be held in a trust fund outside the State Treasury. On or
23 before the 25th day of each calendar month, the State
24 Department of Revenue shall prepare and certify to the
25 Comptroller of the State of Illinois the amount to be paid to
26 the commission, which shall be the then balance in the fund,

1 less any amount determined by the Department to be necessary
2 for the payment of refunds. Within 10 days after receipt by the
3 Comptroller of the certification of the amount to be paid to
4 the commission, the Comptroller shall cause an order to be
5 drawn for the payment for the amount in accordance with the
6 direction in the certification.

7 (Source: P.A. 92-221, eff. 8-2-01; 93-1068, eff. 1-15-05.)

1

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2

Statutes amended in order of appearance

3	20 ILCS 2505/2505-210	was 20 ILCS 2505/39c-1
4	30 ILCS 105/6z-18	from Ch. 127, par. 142z-18
5	30 ILCS 105/6z-20	from Ch. 127, par. 142z-20
6	35 ILCS 105/2	from Ch. 120, par. 439.2
7	35 ILCS 105/3	from Ch. 120, par. 439.3
8	35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
9	35 ILCS 105/3-5.1 new	
10	35 ILCS 105/3-5.5	
11	35 ILCS 105/3-10	from Ch. 120, par. 439.3-10
12	35 ILCS 105/3-10.2 new	
13	35 ILCS 105/3-10.3 new	
14	35 ILCS 105/3-10.5	
15	35 ILCS 105/3-25	from Ch. 120, par. 439.3-25
16	35 ILCS 105/3-45	from Ch. 120, par. 439.3-45
17	35 ILCS 105/6	from Ch. 120, par. 439.6
18	35 ILCS 105/8	from Ch. 120, par. 439.8
19	35 ILCS 105/9	from Ch. 120, par. 439.9
20	35 ILCS 105/10	from Ch. 120, par. 439.10
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